

DECISIONS
OF THE
RAILROAD COMMISSION

OF THE
STATE OF CALIFORNIA

VOLUME IX

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CALIFORNIA RAILROAD COMMISSION DECISIONS.

DECISION No. 3021.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER
COMPANY OF CALIFORNIA FOR PERMISSION TO ISSUE CAPITAL
STOCK AND DEBENTURES AND FOR APPROVAL OF A CERTAIN
FINANCIAL PLAN.

Application No. 1999.

Decided January 3, 1916.

REPORT OF THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas the order of December 20, 1915, in the above entitled proceeding provides in part as follows:

"1. Great Western Power Company of California is hereby authorized to issue 274,986 shares of its common capital stock of the par value of \$100.00 per share, to Western Power Company (of New Jersey) in exchange for 274,986 shares, of the par value of \$100.00 per share, of the capital stock of Great Western Power Company, now held by Western Power Company (of New Jersey), provided that Great Western Power Company of California shall first have secured from the Railroad Commission a supplemental order specifying that said company has adopted a form of certificate for such common capital stock as directed in the opinion herein"; and

Whereas Great Western Power Company of California, at a special meeting of its board of directors, held in San Francisco, California, on December 31, 1915, adopted a form of common stock certificate, which form includes the language directed to be therein included by said order of December 20, 1915; and

Whereas Great Western Power Company of California has filed with the Railroad Commission a certified copy of said resolution of its board of directors,

The Railroad Commission of California hereby finds as a fact that Great Western Power Company of California has adopted a form of stock certificate for the common capital stock authorized to be issued by said order of December 20, 1915, containing the language directed to be inserted therein, in compliance with said order of December 20, 1915.

Dated at San Francisco, California, this 3d day of January, 1916.

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DECISION No. 3022.

IN THE MATTER OF THE APPLICATION OF PACIFIC LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK AND BONDS.

Application No. 2006.

Decided January 3, 1916.

Applicant applies for permission to issue \$4,000,000.00 face value 6 per cent general mortgage convertible bonds, proceeds of which it desires to use partly to refund notes representing amounts heretofore expended for additions and betterments, the balance for future improvements which it desires to make, also for permission to issue \$4,120,000.00 par value of prior preferred stock to be issued as necessary to refund the bonds herein applied for. Application granted, provided that such bonds shall be issued at their face value less 3 per cent commission, the proceeds to be used, \$2,724,639.28 for the purpose of refunding notes as listed herein, the balance only as directed under supplemental order.

S. M. Haskins, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, Commissioner.

In this application Pacific Light and Power Corporation asks authority:

(a) To issue \$4,000,000.00 face value of 6 per cent general mortgage serial convertible gold bonds at a price and for purposes hereinafter specified;

(b) To issue from time to time \$4,120,000.00 par value of prior preferred 7 per cent cumulative stock for the purpose of converting said \$4,000,000.00 face value of bonds into said prior preferred stock;

(c) To execute a mortgage and deed of trust securing the payment of said bonds; said mortgage and deed of trust to be in substantially the form and tenor as that attached to the application herein and marked Exhibit "A."

Pacific Light and Power Corporation proposes to amend its articles of incorporation so as to provide for an authorized issue of \$14,440,500.00 of 7 per cent prior preferred cumulative stock. Applicant has at present stock authorized and outstanding as follows:

Class	Authorized	Outstanding
First preferred	\$5,000,000 00	\$5,000,000 00
Second preferred	10,000,000 00	9,975,000 00
Common	25,000,000 00	10,559,500 00
Totals	\$40,000,000 00	\$25,534,500 00

Applicant has at present \$14,400,500.00 par value of common stock authorized but unissued. By the proposed amendment to the articles

of incorporation, the unissued common stock is to be changed into 7 per cent prior preferred cumulative stock. Of the prior preferred stock \$4,120,000.00, or so much as may be necessary, is appropriated to refund \$4,000,000.00 face value of 6 per cent general mortgage serial convertible gold bonds at ratios hereinafter stated.

Applicant does not contemplate at this time the issuance of any of its prior preferred stock, except as above noted.

An amendment to the articles of incorporation of Pacific Light and Power Corporation, providing for the reclassification of its stock as indicated, has heretofore been approved by stockholders owning more than 95 per cent of the outstanding stock of the company. Because of the failure of the company to comply with a certain legal technicality, this amendment has been held to be void. In substance, the same amendment has again been submitted to the stockholders for approval. It is, of course, evident that any order this Commission may issue in this proceeding is contingent upon the stockholders approving the proposed amendment to the articles of incorporation.

Applicant asks for an order authorizing it to issue \$4,000,000.00 face value of 6 per cent general mortgage serial convertible gold bonds. The bonds are to be dated January 15, 1916. They are to be issued in series and mature as follows:

Series	Amount	Maturity
A -----	\$400,000 00	Jan. 15, 1917
B -----	900,000 00	Jan. 15, 1918
C -----	900,000 00	Jan. 15, 1919
D -----	900,000 00	Jan. 15, 1920
E -----	900,000 00	Jan. 15, 1921
Total -----	\$4,000,000 00	

At the option of the holder, or registered owner of bonds, any and all bonds may be converted into prior preferred capital stock at rates as follows:

After May 15, 1916, but before January 16, 1918, at the rate of \$1,030.00 par value of stock for each \$1,000.00 of bonds;

After January 15, 1918, but before January 16, 1919, at the rate of \$1,020.00 par value of stock for each \$1,000.00 of bonds;

After January 15, 1919, but before January 16, 1920, at the rate of \$1,010.00 par value of stock for each \$1,000.00 of bonds;

After January 15, 1920, to and including January 15, 1921, at the rate of \$1,000.00 par value of stock for each \$1,000.00 of bonds.

Applicant proposes to offer said bonds for subscription to its stockholders at 100 per cent of principal and accrued interest. In order to insure their sale and to provide funds for immediate needs, in the event that the stockholders do not subscribe, applicant has arranged with

bankers to underwrite said offer to the stockholders by agreeing to purchase at the same price any bonds not so subscribed for by stockholders up to \$2,000,000.00. As a consideration, the underwriters are to receive a commission of 3 per cent on the entire \$2,000,000.00. They also have the option on the remaining \$2,000,000.00 face value of bonds not subscribed for by the stockholders at face value and accrued interest with a 3 per cent commission.

Applicant presents a statement, marked Exhibit "D," showing that to November 30, 1915, it has invested for capital purposes the sum of \$3,023,191.81 from funds obtained from sources other than the sale of stock and bonds. This sum, it states, is represented for the most part by its floating indebtedness.

Applicant asks authority to use \$2,724,639.28 of the proceeds to be obtained from the sale of its bonds to pay notes which are set forth in Exhibit "C" attached to this application. The evidence shows that the proceeds from the notes have been used to pay for extensions and improvements to applicant's plant. The remainder of the proceeds, applicant desires to use to pay for the cost of proposed extensions, additions and betterments to its plant.

No statement showing in detail the proposed extensions, additions and betterments has been filed. In fact, witnesses for applicant testified that it would be impossible at this time to file such a statement. It is, of course, obvious that until such statement is filed, this Commission can issue no final order in regard to the expenditures of the proceeds to be obtained from the sale of the bonds, other than the \$2,724,639.28 above mentioned.

As indicated above, applicant's first preferred stock and second preferred stock is practically all outstanding. While it has in its treasury \$14,400,500.00 par value of common stock, it is unable at the present time to sell this stock at an advantageous price. The only other means available, to permanently finance future extensions and improvements, is the sale of bonds. However, the management of the company does not consider it desirable to finance all capital expenditures by means of bonds. It is of the opinion that it is preferable to provide some means other than bonds for capital expenditures. To that end, it has determined upon a 7 per cent prior preferred stock, which it hopes to be able to sell at par. It is contemplated that the \$14,400,500.00 par value of prior preferred stock to be authorized will take care of future extensions and betterments to a considerable extent. It is, of course, evident that if applicant does finance its future construction, for the most part from the sale of stock, it should be able to sell its bonds at a better price.

The immediate results following the issue of the bonds herein authorized will be the conversion, in effect, of a floating debt of \$2,724,639.28

into a funded debt which in turn it is hoped will be converted into prior preferred stock. In addition, applicant will obtain approximately \$1,155,360.72 to pay for future extensions and improvements to its plant.

Subject to the conditions specified in the order, I recommend that this application be granted.

I herewith submit the following form of order:

ORDER.

Pacific Light and Power Corporation having applied to this Commission for authority to issue \$4,000,000.00 face value of 6 per cent general mortgage serial convertible gold bonds; to issue \$4,120,000.00 par value of 7 per cent prior preferred stock and to execute a mortgage or deed of trust to secure the payment of said bonds, said mortgage or deed of trust to be substantially in the form and tenor as that attached to this application and marked Exhibit "A," and a hearing having been held and it appearing that the purposes for which it is proposed to issue said bonds and stock are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Pacific Light and Power Corporation be given and it is hereby given authority to issue \$4,000,000.00 face value of its 6 per cent general mortgage serial convertible gold bonds.

It is hereby further ordered that Pacific Light and Power Corporation be given and it is hereby given authority to issue \$4,120,000.00 par value of its 7 per cent prior preferred stock, or such an amount not exceeding said \$4,120,000.00, as may be necessary to exchange for the bonds herein authorized and which are offered for conversion.

It is hereby further ordered that Pacific Light and Power Corporation be given and it is hereby given authority to execute a mortgage or deed of trust securing the payment of the bonds herein authorized, said mortgage or deed of trust to be substantially in the same form and tenor as the mortgage or deed of trust attached to this application and marked Exhibit "A."

The authority herein given is given upon the following terms and conditions, and not otherwise:

1. Applicant shall sell the bonds herein authorized to be issued at not less than the face value thereof and accrued interest less a commission of three per cent.

2. Applicant shall use the proceeds from the sale of the bonds herein authorized for the following purposes and none other:

(a) The sum of \$2,724,639.28 may be used to pay the following notes set forth in Exhibit "C," attached to this application:

Date of note	Terms	Name	Rate, per cent	Amount
10/22/13	1 year -----	Security Trust and Savings Bank-----	6	\$150,000 00
5/ 9/14	1 day -----	Security Trust and Savings Bank-----	6	35,000 00
5/12/14	49 days -----	Security Trust and Savings Bank-----	6	35,000 00
7/22/14	3 months -----	Security National Bank-----	6	50,000 00
10/28/14	6 months -----	U. S. Mortgage and Trust Co. (Ex- tended to April 28, 1916)-----	6	500,000 00
9/ 1/14	6 months -----	H. E. Huntington-----	6	68,250 00
10/ 1/14	6 months -----	H. E. Huntington-----	6	31,845 00
11/ 3/14	6 months -----	H. E. Huntington-----	6	65,260 00
3/ 1/15	6 months -----	H. E. Huntington-----	6	131,200 00
5/ 1/14	1 year -----	Huntington Land and Improvement Co. (balance due)-----	6	308,084 28
11/26/15	9 months -----	Marine National Bank of Buffalo-----	5	900,000 00
11/26/15	9 months -----	Bankers Trust Co. of Buffalo-----	5	100,000 00
11/29/15	60 days -----	Wm. Salomon & Co.-----	5	350,000 00
Total October 31, 1915.-----				\$2,724,639 28

(b) The proceeds remaining after payment of said \$2,724,639.28 face value of notes shall be used only for such purpose or purposes, as shall hereafter be specified by the Railroad Commission in a supplemental order, after applicant herein shall have presented to the Railroad Commission a statement showing in detail the proposed extensions, additions and betterments to applicant's plant, the cost of which is to be paid from the proceeds of the bonds herein authorized.

3. No bonds herein authorized to be issued shall be issued until applicant shall have submitted to this Commission a copy of its amended articles of incorporation authorizing \$14,440,500.00 par value of 7 per cent prior preferred stock.

4. Applicant may issue its 7 per cent prior preferred stock herein authorized to be issued at any time on or before January 15, 1921, in exchange for bonds herein authorized and in accordance with article four of the mortgage or deed of trust herein approved, said article providing for the conversion of the bonds into prior preferred stock, provided that applicant shall report to the Railroad Commission the issue of said prior preferred stock, the proceeds derived therefrom and the disposition of said proceeds.

5. The approval herein given of said mortgage or deed of trust is for the purpose of this proceeding only, and an approval in so far as the Railroad Commission has jurisdiction under the terms of the Public

Utilities Act, and is not intended as an approval of said mortgage or deed of trust as to any other legal requirements to which said mortgage or deed of trust may be subject.

6. Applicant shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Railroad Commission in accordance with the Railroad Commission's General Order No. 24, stating the sale or disposal of such bonds during the preceding month, the terms and conditions of such sale, the moneys realized therefrom and the use and disposition of such moneys.

7. This order shall not become effective until the fee prescribed by section 57 of the Public Utilities Act, as amended, shall have been paid.

8. The authority herein granted to issue bonds shall apply only to such bonds as may be issued by applicant herein on or before the 30th day of November, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of January, 1916.

DECISION No. 3023.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF CALIFORNIA AUTHORIZING IT TO ISSUE, SELL AND DELIVER ITS FIRST PREFERRED STOCK TO THE PAR VALUE OF TWO MILLION FIVE HUNDRED THOUSAND DOLLARS, AND TO USE THE PROCEEDS FROM THE SALE OF SAID FIRST PREFERRED STOCK IN THE MANNER AND FOR THE PURPOSES DESCRIBED HEREIN.

Application No. 1994.

Decided January 3, 1916.

Applicant was heretofore authorized to issue certain amounts of first preferred stock and general and refunding mortgage bonds, the time limit of such order having expired, it now applies for another authorization permitting the issuance of the balance of such stock and bonds remaining unsold and specifying the purposes to which the proceeds thereof shall be devoted. In connection with this application, a general review of applicant's financial condition is made.

Held, Applicant authorized to issue \$2,500,000.00 par value of first preferred stock and \$2,000,000.00 face value of general and refunding mortgage bonds, stock to be sold at not less than 90 and bonds at not less than 85; \$2,473,046.58 of the proceeds of stock and bonds heretofore authorized, together with \$130,005.00 due on stock subscriptions to be used to reimburse applicant's treasury for capital expenditures made during the period May 1, 1914, to August 31, 1915.

Of the proceeds of the stock and bonds herein authorized, applicant to use \$491,744.43 thereof to reimburse its treasury for capital expenditures made, the balance to be used for additions and betterments as approved by the Commission under supplemental order.

W. P. Bosley and Charles P. Cutten, for Applicant.

REPORT OF THE COMMISSION.

DEVLIN, Commissioner.

On December 4, 1915, Pacific Gas and Electric Company filed an application with this Commission for an order authorizing it to issue \$2,500,000.00 par value of first preferred stock so as to net applicant not less than \$90.00 per share and to use the proceeds to pay for the cost of proposed extensions and improvements.

On December 15, 1915, applicant filed an amendment to its application. In the amended petition, applicant alleges that from May 1, 1914, to August 31, 1915, it has expended for extensions and improvements the sum of \$3,480,592.96, of which \$3,094,796.01 has not been capitalized; that pursuant to the authority granted by Decision No. 1632, dated June 30, 1914 (Vol. 4, Opinions and Orders of the Railroad Commission of California, page 1383), and the amendments thereto, it has sold all of the \$12,500,000.00 par value of first preferred stock, the issue of which was authorized by said Decision No. 1632; that it has sold \$3,000,000.00 face value of the \$5,000,000.00 face value of general and refunding bonds, the issue of which was authorized by said Decision No. 1632 and Decision No. 2087, dated January 20, 1915 (Vol. 6, Opinions and Orders of the Railroad Commission of California, page 74); that on December 6, 1915, it had in its treasury the sum of \$2,473,046.58 obtained from the sale of the aforesaid first preferred stock and that on December 6, 1915, there was due the company on first preferred stock, subscriptions the sum of \$130,005.00.

In the amended application, applicant requests that it be permitted to apply the aforementioned sum of \$2,473,046.58 to the reimbursement of its treasury for uncapitalized expenditures incurred from May 1, 1914, to August 31, 1915; to issue and sell at not less than ninety dollars (\$90.00) per share, \$2,500,000.00 par value of first preferred stock; to issue and sell on or before December 31, 1916, \$2,000,000.00 face value of general and refunding mortgage gold bonds at not less than 85 per cent of their face value and accrued interest; to use the \$130,005.00 due on unpaid first preferred stock subscriptions, together with \$491,744.43 obtained from the sale of the first preferred stock and bonds issued pursuant to the order in this proceeding, for the reimbursement of its treasury for moneys expended for capital purposes; and to use the remainder of the proceeds obtained from the sale of the first preferred stock and bonds, which applicant asks authority to issue, to pay for

the cost of extensions, improvements, additions and betterments to its plant made subsequent to August 31, 1915.

The estimated cost of the proposed extensions and improvements, which applicant contemplates to make is set forth in Exhibit "A" attached to the second supplemental application No. 1188, and is as follows:

General manager construction authorized—August 31, 1915:

Electric department -----	\$617,036 83
Gas department -----	219,873 74
Water department -----	25,627 62
Railway department -----	39,850 01
Steam sales department -----	2,119 24
Miscellaneous and all departments -----	129,656 98
<hr/>	
Total—excluding South Yuba -----	\$1,034,164 42
South Yuba construction -----	3,672,453 80
<hr/>	

General manager construction authorized ----- \$4,706,618 22

Estimated new construction, arising out of the
development of the company's business and the
addition of new consumers:

Electric department -----	\$1,500,000 00
Gas department -----	1,000,000 00
Water department -----	250,000 00
Railway department -----	250,000 00
Steam sales department -----	25,000 00
Supply department -----	25,000 00
All departments and miscellaneous -----	100,000 00
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Total estimated new construction ----- 3,150,000 00

Total capital expenditures to be made ----- \$7,856,618 22

Applicant estimates that to complete its South Yuba development will entail an expenditure of \$3,672,453.80. This includes the construction of power houses Nos. 4, 5 and 6, which calls for an estimated expenditure of \$1,410,976.49. No work has been done on power house No. 6. In fact, the evidence is to the effect that the company, for the present, contemplates only the completion of power houses Nos. 4 and 5. This being the case, the order in this proceeding will not authorize the expenditure of any moneys on power house No. 6.

The authority granted by the aforesaid Decisions Nos. 1632 and 2087 to issue \$12,500,000.00 par value of first preferred stock and \$5,000,000.00 face value of bonds expires January 1, 1916. As stated, all of the stock and \$3,000,000.00 of the bonds have been sold. To December 6, 1915, applicant reports that it has received in cash from the sale of the stock, the sum of \$10,212,207.50; that under the orders of this Commission it has used thereof the sum of \$7,739,160.92, leaving a balance of \$2,473,046.58 on hand. In addition to this there is due from purchasers of first preferred stock the sum of \$130,005.00. Instead

of filing a third supplemental Application No. 1188 asking authority to apply the cash on hand together with the amount still due, and asking for an extension of time within which to sell the remaining \$2,000,000.00 face value of bonds, applicant prefers to consider Application No. 1188 and the authority granted in pursuance thereof, as closed. It specifically requests that the order in this proceeding provide for the application of the aforementioned proceeds and the sale of bonds. I see no valid objection to applicant's request in this regard.

As stated above, applicant estimates that the new construction arising out of the development of its business and the addition of new consumers during 1916 will call for an expenditure of \$3,150,000.00. This estimate is based upon the past records of the company. No details have been submitted. In fact, the evidence shows that no accurate estimate can be furnished. This being the situation, the order will provide that none of the proceeds from the sale of the stock and bonds herein authorized shall be used to pay for such expenditures until applicant shall have furnished this Commission with a detailed list of said expenditures and received a supplemental order authorizing it to pay for the same from proceeds obtained from sale of said stock and bonds herein authorized.

Pacific Gas and Electric Company was organized October 10, 1905. It has acquired the properties of San Francisco Gas and Electric Company, California Gas and Electric Corporation, California Gas and Electric Company, California Central Gas and Electric Company, Fresno Gas and Electric Company, Metropolitan Light and Power Company, Vallejo Gas Company, Suburban Light and Power Company, Mutual Electric Light Company, Contra Costa Light and Power Company, Livermore Water and Power Company, Los Gatos Ice, Gas and Electric Company, South San Francisco Light and Power Company, Sebastopol Light and Power Company, United Water and Power Company, Newman Light and Power Company, Live Oak and Encinal Light and Power Company, and the public utility properties owned and operated by a few individuals.

The company is engaged in the business of generating, distributing and selling gas and electricity for light, heat and power; of generating and distributing steam for heat; of storing, distributing and selling water for domestic uses, power, irrigation, and of operating a street railway system. Applicant's principal place of business is San Francisco. The company operates in north central California, comprising the city and county of San Francisco, the counties of Butte, Sierra, Yuba, Colusa, Sutter, Nevada, Placer, Yolo, Sacramento, Solano, Napa, Amador, Calaveras, Tuolumne, Mariposa, El Dorado, San Joaquin, Sonoma, Marin, Contra Costa, Alameda, San Mateo, Stanislaus, Santa Clara, Santa Cruz, San Benito and Merced.

Applicant in its annual report filed with the Railroad Commission for the year ending December 31, 1914, reports the generating capacity of its hydroelectric plants at 90,310 kilowatts, and of its electric steam plants at 81,700 kilowatts, making a total of 172,010 kilowatts. The generating capacity of its gas plants is reported as being 2,156,500 cubic feet per hour. It reports a reservoir capacity of approximately 5,453,693.617 cubic feet.

On December 31, 1914, the company according to its annual report owned 1,534.33 miles of high tension transmission lines and 3,684.7 miles of overhead distribution lines. Its underground electrical distributing system consisted of 462.65 miles of cable and 726.23 miles of duct. Its gas mains consisted of 145.27 miles of high pressure transmission mains; 297.37 miles of high pressure and 2,073.61 miles of low pressure distribution mains.

On December 31, 1914, applicant herein had 148,957 electrical consumers, 220,360 gas consumers and 9,051 water consumers. Applicant also sells steam for heating purposes in San Francisco and Oakland and operates the street railway system in the city of Sacramento.

✓ Pacific Gas and Electric Company has an authorized capital stock of \$160,000,000.00, divided into 1,600,000 shares of the par value of \$100.00 each. The stock is divided into 500,000 shares of first preferred, 100,000 shares of original preferred and 1,000,000 shares of common stock.

The owners and holders of the first preferred stock, when issued as fully paid, are and shall be entitled to receive from the surplus profits cumulative preferential dividends at the rate of 6 per cent per annum and no more, upon the par value of the stock.

Upon the liquidation and dissolution of the corporation, the owners and holders of fully paid shares of first preferred stock will be entitled to receive, out of the surplus profits, an amount equal to the 6 per cent dividend upon the stock held by them, from the date of the original issue of the stock, less the amount of the dividends theretofore paid thereon, or so much thereof as the surplus profits so remaining shall be sufficient to pay. They shall also receive an amount equal to the par value of the shares before any amount shall be paid to the holders of the original preferred stock and common stock.

The owners and holders of original preferred stock are entitled to a cumulative preferential dividend at the rate of 6 per cent and no more, after the payment of the dividend on the first preferred stock. Any surplus profits remaining after the payment of dividends on the first preferred and original preferred stock may be distributed as dividends on common stock.

The articles of incorporation further provide that "the owners and holders of shares of said original preferred stock shall have the right at any time on or after the first day of July, 1916 (subject only to the approval of the Railroad Commission of the State of California or other governmental board or officer having jurisdiction in the premises), to surrender to this corporation all or any of such shares then held by them, and to receive in exchange therefor shares of said first preferred stock at the rate of one and twenty-five one-thousandths (1.025) shares of said first preferred stock for each share of said original preferred stock."

The authority for such conversion has heretofore been given by this Commission.

Of its authorized stock, Pacific Gas and Electric Company has issued 120,238 shares of first preferred stock of the par value of \$100.00 per share, or a total par value of \$12,023,800.00; 100,000 shares of original preferred stock of the par value of \$100.00 per share, or a total par value of \$10,000,000.00 and 647,694.4566 shares of common stock of the par value of \$100.00 per share. Of this common stock, 316,968.6666 shares are held by the San Francisco Gas and Electric Company and 330,725.79 shares are in the hands of the public.

If the holders of the original preferred stock elect, after July 1, 1916, to convert their holdings into first preferred stock, there will be outstanding 222,738 shares of first preferred stock of the par value of \$100.00 per share, or a total par value of \$22,273,800.00.

In this application request is made to issue 25,000 additional shares of first preferred stock.

Pacific Gas and Electric Company has submitted a balance sheet, dated November 30, 1915, which shows assets and liabilities as follows:

<i>Asset Accounts.</i>	
Fixed capital installed prior to January 1,	
1913 -----	\$108,029,074 33
Fixed capital installed since December 31,	
1912 -----	17,872,983 71
Total fixed capital -----	\$125,902,058 04
Cash and deposits:	
A—Cash -----	\$3,407,589 81
B—Special deposits -----	104,995 00
Total cash and deposits -----	3,512,584 81
Notes receivable -----	\$353,631 41
Accounts receivable:	
A—Due from consumers and agents -----	1,884,413 56
B—Miscellaneous accounts receivable -----	152,135 00
Total accounts receivable -----	2,390,179 97
Interest and dividends receivable -----	8,970 59

Investments:

A—Miscellaneous investments	16,319	86
Materials and supplies	1,285,256	75
Sinking funds	3,817,485	99
Treasury securities (\$875,000.00 hypothecated)	3,487,000	00
Prepaid expenses:		
A—Prepaid taxes	497,901	92
Unamortized discount on securities and expenses:		
A—Stocks	\$3,566,994	23
B—Bonds	4,297,750	87
Total unamortized discount on securities and expenses	7,864,745	10
Other suspense	8,198	65
Construction work in progress	3,469,330	79
Total assets	\$152,260,032	47

Liability Accounts.

Capital stock	\$86,793,245	66	\$55,096,379	00*
Stock by substitute company	31,696,866	66		
Installments of stock subscription	326,700	00		
Funded debt	83,379,000	00		
Accounts payable:				
A—Accounts with system corporation	\$72,570	91		
B—Audited vouchers and wages unpaid	1,101,579	21		
C—Consumers' deposits	509,033	51		
D—Miscellaneous accounts payable	35,083	43		
Total accounts payable	1,718,267	06		
Interest accrued	994,102	01		
Taxes accrued	434,947	33		
Dividends declared	964,422	11		
Reserve for accrued depreciation	3,015,812	82		
Casualty and insurance reserves	60,957	82		
Reserves invested in sinking funds	1,077,914	26		
Other reserves from income or surplus (Rate case suspense)	816,095	57		
Coupons due and unpaid	110,997	51		
Bonds called for redemption	1,105	00		
Bad debt reserve	177,773	76		
Special funds (returns due consumers)	54,543	41		
Corporate surplus unappropriated	4,031,014	81		
Total liabilities	\$152,260,032	47		

*NOTE.—By stipulation between subcompanies and Pacific Gas and Electric Company, dividends are waived on proportional amounts held by Pacific Gas and Electric Company.

For the years ending December 31, 1913 and 1914, and the eleven months ending November 30, 1915, Pacific Gas and Electric Company reported earnings and expenses to the Railroad Commission as follows:

Item	1913	1914	Eleven months ending Nov. 30, 1915
Operating revenues	\$15,869,005 99	\$16,912,687 92	\$16,336,959 17
Operating expenses	10,732,590 72	9,794,462 82	9,002,986 23
Net operating revenues	\$5,136,415 27	\$7,118,225 10	\$7,333,972 94
Miscellaneous net operating revenues			85,369 64
Total net operating revenues	\$5,136,415 27	\$7,118,225 10	\$7,419,342 58
Non-operating revenues:			
Rent	\$18,710 21	\$21,213 89	\$19,076 96
Interest and dividends	23,547 16	38,814 32	64,498 25
Sinking and reserve fund accretions	138,200 81	119,969 36	150,622 17
Miscellaneous nonoperating revenues, net	147,466 00	123,798 57	44,128 39
Total nonoperating revenues	\$327,924 18	\$303,796 14	\$278,325 77
Gross corporate income	\$5,464,339 45	\$7,422,021 24	\$7,697,668 35
Deduct:			
Uncollectible bills	\$48,000 00	\$108,000 00	\$99,000 00
Nonoperating taxes	13,078 38	11,458 76	
Interest on funded debt	3,680,266 46	3,748,330 01	3,488,163 68
Other interest deductions	221,778 54	443,071 38	176,053 83
Rent	15,407 20	14,019 63	14,618 75
Amortization of debt discount and expense	246,041 50	469,515 01	146,681 20
Total deductions	\$4,203,757 68	\$4,776,355 53	\$3,905,284 96
Surplus for year from operations	\$1,260,581 77	\$2,645,665 71	\$3,792,383 39
Surplus beginning of year	3,011,679 84	2,495,611 06	3,326,092 81
Profit for year	1,260,581 77	2,645,665 71	3,792,383 39
Miscellaneous additions to surplus	13,337 27	128,330 16	99,377 70
Surplus before making any deductions	\$4,285,598 88	\$5,269,606 93	\$7,217,853 90
Deductions:			
Dividends paid	\$998,848 22	\$614,983 37	\$2,929,752 50
Sinking fund appropriations	475,954 50	601,959 76	
Miscellaneous deductions	315,185 10	726,570 99	257,086 59
Total deductions	\$1,789,987 82	\$1,943,514 12	\$3,186,839 09
Surplus end of year	\$2,495,611 06	\$3,326,092 81	\$4,031,014 81

¹Credit.

The operating revenues and expenses, as above reported for the years ending December 31, 1913 and 1914, include the earnings and expenses of the street railway system operating in the city of Sacramento. The income statement for the eleven months ending November 30, 1915, includes only the net operating revenue of the railway system, which is reported at \$85,369.64.

As stated heretofore by Decision No. 1632, dated June 30, 1914, Pacific Gas and Electric Company was authorized to issue and sell at not less than \$82.50 per share, \$12,500,000.00 par value of 6 per cent first preferred stock. The company sold 115,819 shares at \$82.50 per share; 6,757 shares at \$85.00 per share; 2,144 shares at \$87.50 per share and 280 shares at \$90.00 per share. The average selling price was \$82.74 per share as against \$82.50 per share, the minimum price fixed by the Railroad Commission. The stock was sold on a 7.2 per cent basis. The \$2,500,000.00 par value of stock, which applicant now desires to issue, is to be sold for not less than \$90.00 per share, or on a 6.6 per cent basis. Applicant also desires authority to issue \$2,000,000.00 face value of bonds at not less than 85 per cent of the face value plus accrued interest. The bonds mature January 1, 1942.

I herewith submit the following form of order:

ORDER.

Pacific Gas and Electric Company having applied to this Commission for an order authorizing it to issue \$2,500,000.00 par value of first preferred stock, to issue \$2,000,000.00 face value of general and refunding bonds, and to use the proceeds obtained from the sale of the stock and bonds, together with the unexpended proceeds obtained from the sale of first preferred stock heretofore authorized, for purposes recited in the foregoing opinion, and a hearing having been held on said application, and the Railroad Commission finding that the purposes for which the proceeds of said stocks and bonds are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Pacific Gas and Electric Company be given authority and it is hereby given authority to issue \$2,500,000.00 par value of first preferred stock.

It is hereby further ordered that Pacific Gas and Electric Company be given authority and it is hereby given authority to issue \$2,000,000.00 face value of its general and refunding gold bonds, said bonds being part of Series "A" numbered 28,431 to 30,430, inclusive.

It is hereby further ordered that Pacific Gas and Electric Company be given authority and it is hereby given authority to use \$2,473,046.58 cash on hand, said cash being obtained from the sale of preferred stock the issue of which was authorized by Decision No. 1632 (Vol. 4, Opinions and Orders of the Railroad Commission of California, page 1383), together with \$130,005.00 due on unpaid subscriptions for said stock to reimburse its treasury for capital expenditures made from May 1, 1914, to August 30, 1915.

The authority herein granted is granted upon the following conditions and not otherwise:

1. Pacific Gas and Electric Company shall sell the first preferred stock herein authorized so as to net in cash not less than \$90.00 per share.

2. Pacific Gas and Electric Company shall sell the bonds herein authorized at not less than 85 per cent of the face value thereof plus accrued interest.

3. Pacific Gas and Electric Company shall use the proceeds from the issue of said first preferred stock of the par value of \$2,500,000.00 and said bonds of the face value of \$2,000,000.00 only for the following purposes:

(a) To reimburse its treasury for capital expenditures to August 31, 1915, in the sum of \$491,744.43.

(b) To pay for the cost of extensions, additions and betterments to its plant, in accordance with Exhibit "A" attached to the second supplemental Application No. 1188, provided that none of the proceeds shall be used for new construction estimated at \$3,150,000.00 arising out of the development of the company's business and the additions of new consumers, until applicant herein shall have filed with this Commission a detailed statement of said expenditures, and provided further that none of the proceeds shall be applied to the construction of power house No. 6 unless authorized by this Commission in a supplemental order.

4. The authority herein given is given upon the condition that it shall not relieve the applicant from such extension of its public utility service as this Commission may hereafter find to be required by public convenience and necessity.

5. Pacific Gas and Electric Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock and bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said stock and bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

6. The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

7. The authority herein granted shall apply only to such stock and bonds as may be issued on or before December 31, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of January, 1916.

Decisions Nos. 3024, 3025, 3026, grade crossings; not printed. See end of volume.

DECISION No. 3027.

IN THE MATTER OF THE APPLICATION OF SUISUN AND GREEN VALLEY TELEPHONE COMPANY FOR AN ORDER AUTHORIZING THE INCREASE OF RATES OF RENTAL.

Application No. 1954.

Decided January 4, 1916.

Applicant operates a rural telephone system in Solano County, charging stockholders \$3.00 per year and nonstockholders \$12.00 per year of which amounts \$3.00 per year per subscriber is paid to The Pacific Telephone and Telegraph Company. Applicant contends that this rate is noncompensatory and applied for permission to increase the rate to nonsubscribers to \$18.00 per annum, and it appearing that if the rate to all subscribers was fixed at \$12.00 per year it would eliminate the discrimination at present in effect as between subscribers and nonsubscribers and also provide an adequate revenue for applicant, such rate is established to become effective January 1, 1916.

E. I. Jones, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

Suisun and Green Valley Telephone Company, the applicant in this proceeding, is an incorporated company owning and maintaining a system of rural telephone lines which terminate in a central exchange switchboard located in the town of Suisun, Solano County, and operated by The Pacific Telephone and Telegraph Company, the applicant not having a switchboard of its own. The stockholders of this corporation pay an annual switching charge of \$3.00 per year to The Pacific Telephone and Telegraph Company for the switching service which that company performs through its Suisun exchange switchboard. Aside from this annual switching charge, the stockholders pay no rates other than for long distance toll service, these charges being paid also to The Pacific Telephone and Telegraph Company, but each stockholder is expected to bear his pro rata of the expense of maintaining the company's system.

In addition to those having service on this basis, the applicant has a number of other patrons connected with its lines for whom it has provided telephone instruments and from whom it collects a rate of \$12.00 per year, out of which amount The Pacific Telephone and Telegraph Company collects the same switching charge which the stockholders pay. The company is thus operating as a public utility subject to the jurisdiction of the Railroad Commission.

Application is now being made to the Commission for permission to increase the rate of nonstockholders from \$12.00 to \$18.00 per year, the applicant alleging that the expense of maintaining its system renders

this increase necessary. To support this allegation, the applicant has presented statements of receipts and expenditures for the past year. According to these statements and to the testimony of witnesses, there was a small net income remaining at the end of the year, but certain items of operating expense which should have been provided for and which would have offset the balance referred to have not been included in these statements. In addition to this, there are also certain accounts which have been incurred in the maintenance of and improvement of the applicant's system still unpaid and which it is unable to meet out of the present income.

As stated above, stockholders of this company in addition to paying \$3.00 per year for their switching service also pay the cost of maintenance of the system. It appears, however, that a portion of the company's present indebtedness covers items of maintenance. Aside from this fact, however, it will also be noted that stockholders are allowed a rate more favorable than the rate charged those subscribers who do not own stock, while it is the latter rate which the applicant wishes to increase. Whether or not the applicant may be entitled to better rates to enable it to operate at a profit, it is not proper that its stockholders should be allowed rates more favorable than those of its nonstockholders.

There are now 39 nonstockholders and 67 stockholders, a total of 106 patrons, for each of whom The Pacific Telephone and Telegraph Company collects \$3.00 per year for connection at Suisun. If each patron were paying \$12.00 per year, the applicant would collect and retain \$9.00 per year in addition to The Pacific Company's charges, or a total of \$954.00 per year. Other revenues collected during the year amounted to \$107.35, the total of the two items representing a gross income of \$1,061.35. The gross operating expenses for the year were \$699.64. This would leave a net revenue of \$361.71. The original cost of the company's plant, as shown by its books, was \$4,165.72; thus it would appear that if all of the applicant's patrons had been paying a uniform rate of \$12.00 per annum the applicant would have earned approximately 8½ per cent on the original value of its plant. This, however, is not a correct showing for the reason that the plant has depreciated considerably in value, while nothing has been put aside to take care of depreciation and nothing has been charged to this account in the statement of operating expenses for the year referred to.

The applicant has presented to the Commission an inventory in detail of its property. An examination of this inventory indicates that the original cost shown by the company's books is considerably lower than it would cost to reproduce the plant as of this date, but as stated above, depreciation has not been taken care of in the past and the plant has considerably depreciated in value. According to the company's records, the average age of the plant is slightly in excess of eleven

years. Accordingly, to charge off depreciation for this period, estimating depreciation at a rate of 5.2 per cent, the present value of the property after allowing for interest during construction, organization and working capital would be approximately \$2,280.00. It would cost approximately \$6,132.83 to reproduce the plant new. Deducting depreciation at the same rate and allowing for the same items of interest, organization and working capital, the cost of reproduction less depreciation would be approximately \$3,200.00. Thus, after adding depreciation at the rate of 5 per cent on either one of these valuations to the expenses of operation, as shown by the statement referred to above, the following result would appear:

On the valuation of \$2,280.00, representing the original cost less depreciated value, the applicant would be earning slightly less than 11 per cent if a uniform rate of \$12.00 per year were made effective.

On a valuation of \$3,200.00, being the reproduction value less depreciated value, the applicant would be earning slightly in excess of 6 per cent.

The evidence shows that the applicant's present lines are for the most part heavily overloaded and that it will be necessary to construct additional lines and to rearrange present lines in order to relieve the overload and to provide additional service as it may be demanded. These improvements will involve further expenditures which may, when completed, justify a higher rate. The adequacy of the service, however, is not directly involved in this proceeding, the patrons of the company having expressed themselves, in a general way, as being satisfied with the present service. It would appear, therefore, without finally passing upon the valuation of the applicant's property that if such improvements as may be necessary may be made in the system, the applicant will be afforded such relief as it may be reasonably entitled to if a rate of \$12.00 per year be uniformly applied to all patrons. The uniform application of this rate will also have the further effect of removing present discrimination as between stockholders' and nonstockholders' rates.

With the understanding, therefore, that the applicant may, if it so desires, apply for a further modification of rates after the improvements referred to may have been completed, I am of the opinion that the uniform application of a rate of \$12.00 per year should be made effective and shall recommend accordingly.

ORDER.

Application having been made to this Commission by Suisun and Green Valley Telephone Company, a corporation, for permission to increase its rates of rental, and a hearing having been had, and it appearing that discrimination in the applicant's present rates exists, and it appearing further to the Commission, as set forth in the preceding

opinion, that the application of a uniform rate of \$12.00 per year to be charged and collected from the stockholders and nonstockholders alike will remove the present discrimination and afford the applicant such relief as it may for the present be reasonably entitled to,

It is hereby ordered that the applicant, Suisun and Green Valley Telephone Company, be and it is hereby permitted to uniformly charge and collect from each of its patrons a rate of \$12.00 per year.

This order to be and become effective from January 1, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 4th day of January, 1916.

DECISION No. 3028.

IN THE MATTER OF THE APPLICATION OF SACRAMENTO VALLEY AND EASTERN RAILWAY TO LEASE TO THE NOBLE ELECTRIC STEEL COMPANY THAT PORTION OF ITS RAILROAD BETWEEN PITT AND HEROULT.

Application No. 1779.

Decided January 4, 1916.

Applicant applies for permission to lease that portion of its road running from Pitt to Heroult to the Noble Electric Steel Company and the first agreement submitted being impracticable and the parties in interest being unable to decide upon a revised agreement, application dismissed.

Thos. B. Dozier, for Applicants.

C. L. Wilson, for Protestant.

C. C. Carlton, for California Highway Commission, Protestant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is an application brought under the provisions of the Public Utilities Act, section 51, requiring that no lease of the whole or any portion of a railroad shall be made until the authority of this Commission shall have been obtained.

Public hearings were held in this proceeding at San Francisco on September 18th and October 22, 1915.

The Noble Electric Steel Company is engaged in the manufacture of iron and steel and has its plant located on the line of the Sacramento Valley and Eastern Railway at the station of Heroult. The Sacramento Valley and Eastern Railway was originally constructed for the

handling of the ores and copper output of the Bully Hill Copper Mining and Smelting Company. Due to the suspension of operations of the Bully Hill Copper Mining and Smelting Company there has been but little traffic, either freight or passenger, over the line of the Sacramento Valley and Eastern Railway and the plant of the Noble Electric Steel Company is the only remaining industry requiring frequent freight service. In view of the need by the Noble Electric Steel Company for more frequent freight service an agreement was prepared under which the Noble Electric Steel Company was to lease that portion of the line of the Sacramento Valley and Eastern Railway between the stations of Pitt and Heroult. The proposed agreement was submitted to the Commission with the application in this proceeding. Certain impracticable conditions appearing in the form of lease agreement submitted with the application having been noted by the Commission, a revised form of agreement was presented at one of the hearings. The application was submitted with the understanding that counsel for the applicants would file with the Commission a copy of the signed lease agreement, but the Commission is now advised that it is impossible to execute the agreement as proposed.

Under such circumstances I can only recommend that the application be dismissed without prejudice and therefore suggest the following form of order.

ORDER.

Sacramento Valley and Eastern Railway having made application to this Commission for permission to lease a portion of its line to the Noble Electric Steel Company, public hearings having been held, the matter submitted with the understanding that a copy of the executed lease agreement would be filed with this Commission, and the Commission having been advised that it is not possible for the agreement to be consummated,

It is hereby ordered that the application be and the same hereby is dismissed without prejudice.

The foregoing opinion and order are hereby approved as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 4th day of January, 1916.

DECISION No. 3029.

IN THE MATTER OF THE APPLICATION OF SUTTER-BUTTE CANAL COMPANY FOR AUTHORITY TO ISSUE CERTAIN PROMISSORY NOTES IN RENEWAL OF NOTES NOW OUTSTANDING.

Application No. 2007.

Decided January 1, 1916.

Applicant heretofore issued notes of the aggregate face value of \$197,000.00, such notes containing a clause to the effect that interest could be cumulative up to the time of maturity. It now applies for permission to issue notes in renewal thereof, including \$59,100.00 interest accrued to date, and it appearing the original notes were issued under extraordinary conditions which warranted the clause mentioned, application to issue notes of the aggregate face value of \$256,100.00 granted, provided that such new notes shall not contain a clause giving the owner the option to cumulate the interest thereon.

Gordon Hall, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This is an application of Sutter-Butte Canal Company for authority to issue three-year 6 per cent promissory notes in the sum of \$256,100.00 of which \$197,000.00 represents renewal of notes now outstanding and \$59,100.00 cumulated interest thereon.

Applicant was incorporated in January, 1911, under the laws of the State of California for the purpose of operating an irrigation system in Sutter and Butte counties with water diverted from the Feather River. Shortly after its incorporation, applicant acquired the properties of Butte County Canal Company and Sacramento Valley Farms Company.

Applicant's total authorized capital stock consists of 12,500 shares of the par value of \$100.00 per share of which 12,198 shares are now outstanding. Of the total amount of stock authorized 10,186 shares were issued to Butte County Canal Company in return for its property and 2,314 shares to Sacramento Valley Farms Company in return for the property of that company. At the present time, the stock is divided among less than a score of individual holders. Applicant has never paid any dividends but on the contrary has been forced to levy four assessments on its capital stock. Two of these assessments were at the rate of \$10.00 per share and two were at the rate of \$5.00 per share. In all, \$370,040.00 has been raised from these assessments, of which sum \$244,680.00 was paid in subsequent to the issue of the promissory notes herein referred to and \$60,000.00 during the past ninety days.

Applicant has an authorized issue of first mortgage 6 per cent bonds in the total sum of \$500,000.00, secured by deed of trust conveying all of its property to First Federal Trust Company, trustee. Of these bonds, \$358,000.00 face value are outstanding in the hands of the public and \$43,000.00 are held in trust for the retirement of an equal amount of underlying bonds of Butte County Canal Company.

In addition to the above indebtedness, applicant has outstanding \$197,000.00 of five-year promissory notes, issued under an order of this Commission, dated October 23, 1912 (Vol. 1, Opinions and Orders of the Railroad Commission of California, page 803). The history of these notes is in brief as follows:

At the time that applicant purchased the property of Sacramento Valley Farms Company it assumed all the liabilities of that company, including certificates of indebtedness amounting to \$197,000.00 and bearing interest at the rate of 6 per cent per annum. It appears that these certificates were originally issued in return for moneys advanced and paid to Sacramento Valley Farms Company. Under their terms, they were to be a first lien upon all the property of the Farms company, but this provision was not carried out and no lien was ever created.

When the property of the Sacramento Valley Farms Company came into possession of Sutter-Butte Canal Company, the certificate holders insisted that either a prior lien be created or that Sutter-Butte Canal Company issue its unsecured 6 per cent promissory notes in lieu thereof.

Acting upon the latter alternative, Sutter-Butte Canal Company applied to this Commission for authority to issue \$197,000.00 of 6 per cent promissory notes, and the application of the company was granted.

These notes as issued by the company contain a provision giving the makers the option to cumulate the interest thereunder up to the time of maturity of the principal sum. Under the provision, \$59,100.00 has accrued to date. These notes fall due at various dates from January 1, 1916, to February 5, 1917, and applicant desires to issue new three-year notes as the old notes fall due. Authority is also asked to issue notes covering the cumulated interest.

A statement showing in detail the notes which applicant desires to refund, with the cumulated interest thereon, is attached hereto and marked Exhibit "A."

To date, approximately 85 per cent of the note holders have signed an agreement consenting to a refunding of their notes upon the basis outlined in this application.

Applicant's only other note indebtedness consists of a 6 per cent one-day note to Crocker National Bank in the sum of \$50,000.00 and an 8 per cent sixty-day note to J. S. Cook & Company in the sum of

\$12,000.00. Witness for applicant testified that open accounts at the present time would not exceed \$3,000.00.

Before taking up the question of the advisability of allowing applicant to issue the \$256,100.00 in notes as herein applied for, it becomes necessary to inquire into the company's earnings both present and prospective.

For the years ending December 31, 1912, 1913 and 1914, the company has submitted income statements to the Commission as follows:

	1912	1913	1914
Operating revenues -----	\$30,213 63	\$50,617 20	\$85,685 87
Operating expenses -----	26,767 12	25,948 49	*54,618 94
Net revenue -----	\$3,476 51	\$24,673 71	\$31,066 93
Nonoperating revenue -----	27,062 28	8,229 95	8,069 61
Gross corporate income -----	\$30,538 79	\$32,903 66	\$39,136 54
Deductions:			
Interest accrued on funded debt -----	\$29,383 01	\$37,278 00	\$35,964 13
Other interest -----	38,730 89	3,793 15	5,714 92
Other deductions -----	2,759 57	29,712 26	9,036 33
Total deductions -----	\$70,873 47	\$70,783 41	\$50,715 38
Net corporate loss -----	\$40,334 68	\$37,879 75	\$11,578 84

*Unusual increase largely due to extraordinary expenses in connection with floods.

At the hearing, witness for applicant stated that the operating expenses for the first eleven months of 1915 would total approximately \$27,408.18. The prospective earnings for the year are estimated to be in the neighborhood of \$94,000.00. From these statements it will be seen that the earnings for 1915 will be sufficient to pay operating expenses, interest and other fixed charges.

It was in view of unusual conditions that this Commission in its former order authorized applicant herein to issue its promissory note or notes in an aggregate amount not exceeding the sum of \$197,000.00, said note or notes to contain a provision giving to the maker the option to cumulate the interest thereunder up to the time of the maturity of the principal. I do not think that these conditions exist at present. Under normal conditions applicant's earnings during the next three years should be sufficient to pay interest on the notes as it falls due, and I do not believe that the new notes need contain any provision allowing the company to cumulate the interest thereon. With this exception I shall recommend that the company's application be granted. If for

any reason the earnings of the company do not prove adequate, applicant may hereafter apply to the Commission for such an order as may be proper. I submit herewith the following form of order:

ORDER.

Sutter-Butte Canal Company having applied to the Railroad Commission for an order authorizing it to issue its three-year 6 per cent promissory notes in the sum of \$256,100.00, and a hearing having been held and the Commission being of the opinion that applicant's request is reasonable and should be granted, subject, however, to the terms of the following order:

It is hereby ordered that Sutter-Butte Canal Company be given authority and it is hereby given authority to issue its three-year 6 per cent promissory notes in the principal sum of \$256,100.00.

The authority herein granted is granted upon the following conditions and not otherwise:

1. The notes herein authorized shall be issued to refund at maturity the principal and cumulated interest on the notes set forth in Exhibit "A" attached to this decision.

2. None of the notes issued hereunder shall contain any provision giving the maker the option to cumulate the interest thereunder up to the time of the maturity of the principal sum.

3. The notes herein authorized shall be issued so as to net applicant not less than the face value thereof.

4. Within fifteen days after the issue of any of the notes herein authorized, applicant shall report to this Commission the face amounts of the notes, the name of the payee, the rate of interest, the terms of the notes issued and the disposition of the proceeds.

5. The authority herein granted shall not become effective until the payment of the fee prescribed by the Public Utilities Act as amended.

6. The authority herein granted shall apply only to such notes as may be issued on or before March 31, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 4th day of January, 1916.

EXHIBIT "A."

Promissory Notes Which Applicant Desires to Refund.

	Principal	Interest
Dated Jan. 1, 1911; due Jan. 1, 1916:		
Forsyth, W. H.	\$10,000 00	\$3,000 00
Forsyth, W. H.	5,000 00	1,500 00
Hubbard, J. D.	20,000 00	6,000 00
Jones, David B.	20,000 00	6,000 00
Kenly, F. C.	4,000 00	1,200 00
Wingfield, Geo.	20,000 00	6,000 00
Totals	\$79,000 00	\$23,700 00
Dated Jan. 16, 1911; due Jan. 16, 1916:		
Mackenzie, J. H.	\$10,000 00	\$3,000 00
Dated March 20, 1911; due March 20, 1916:		
Russell, Ed	\$2,000 00	\$600 00
Dated April 1, 1911; due April 1, 1916:		
Mackenzie, J. H.	\$5,000 00	\$1,500 00
Wingfield, Geo.	10,000 00	3,000 00
Totals	\$15,000 00	\$4,500 00
Dated April 3, 1911; due April 3, 1916:		
Jones, David B.	\$10,000 00	\$3,000 00
Kenly, F. C.	2,000 00	600 00
Totals	\$12,000 00	\$3,600 00
Dated May 1, 1911; due May 1, 1916:		
Fisher, F. G.	\$1,600 00	\$480 00
Dated May 6, 1911; due May 6, 1916:		
Russell, Ed	\$4,000 00	\$1,200 00
Dated July 5, 1911; due July 5, 1916:		
Forsyth, W. H.	\$5,000 00	\$1,500 00
Wingfield, Geo.	10,000 00	3,000 00
Totals	\$15,000 00	\$4,500 00
Dated July 7, 1911; due July 7, 1916:		
Jones, David B.	\$10,000 00	\$3,000 00
Dated July 12, 1911; due July 12, 1916:		
Kenly, F. G.	\$2,000 00	\$600 00
Dated July 31, 1911; due July 31, 1916:		
Fisher, F. G.	\$800 00	\$240 00
Dated August 16, 1911; due August 16, 1916:		
Mackenzie, J. H.	\$10,000 00	\$3,000 00
Wingfield, Geo.	5,000 00	1,500 00
Totals	\$15,000 00	\$4,500 00

EXHIBIT "A"—Continued.

Promissory Notes Which Applicant Desires to Refund.

	Principal	Interest
Dated Sept. 12, 1911; due Sept. 12, 1916: Hubbard, J. D.-----	\$5,000 00	\$1,500 00
Dated Sept. 22, 1911; due Sept. 22, 1916: Wingfield, Geo. -----	\$5,000 00	\$1,500 00
Dated Oct. 5, 1911; due Oct. 5, 1916: Forsyth, W. H.-----	\$5,000 00	\$1,500 00
Jones, David B.-----	10,000 00	3,000 00
Totals -----	\$15,000 00	\$4,500 00
Dated Nov. 21, 1911; due Nov. 21, 1916: Fisher, F. G.-----	\$800 00	\$240 00
Dated Dec. 1, 1911; due Dec. 1, 1916: Russell, Ed -----	\$4,000 00	\$1,200 00
Dated Feb. 5, 1912; due Feb. 5, 1917: Fisher, F. G.-----	\$800 00	\$240 00
Totals -----	\$197,000 00	\$59,100 00

Summary.

Name	Principal	Interest	Total
Fisher, F. G.-----	\$4,000 00	\$1,200 00	\$5,200 00
Forsyth, W. H.-----	25,000 00	7,500 00	32,500 00
Hubbard, J. D.-----	25,000 00	7,500 00	32,500 00
Jones, David B.-----	50,000 00	15,000 00	65,000 00
Kenly, F. C.-----	8,000 00	2,400 00	10,400 00
Mackenzie, J. H.-----	25,000 00	7,500 00	32,500 00
Russell, Ed -----	10,000 00	3,000 00	13,000 00
Wingfield, Geo. -----	50,000 00	15,000 00	65,000 00
Totals -----	\$197,000 00	\$59,100 00	\$256,100 00

DECISION No. 3030.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO CONSTRUCT AND MAINTAIN AT GRADE A CROSSING WITH THE RAILROAD OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY IN RIALTO AVENUE, IN THE CITY OF SAN BERNARDINO, STATE OF CALIFORNIA.

Application No. 504.

Decided January 6, 1916.

Pacific Electric Railway heretofore applied for permission to construct its single line track across the single line track of Santa Fe Railway which application was granted, the crossing to be protected by a standard interlocking plant, which plant was duly installed. The Santa Fe Railway subsequently constructed a spur track to serve a warehouse company within the interlocking limits, installing a switch lock instead of the usual interlocking protection. Pacific Electric Railway protests such installation and it appearing that the switch lock will render adequate protection though it is slightly slower in operation, its installation permitted.

Frank Karr, for Pacific Electric Railway Company.

E. Winans, for The Atchison, Topeka and Santa Fe Railway Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

SUPPLEMENTAL OPINION.

The original application in this matter was filed by the Pacific Electric Railway Company on April 15, 1913, and asked permission to construct the single track main line of the Pacific Electric over the single track main line of the Santa Fe, on Rialto avenue, in San Bernardino. Shortly after the application was filed an ex parte order was issued on the assumption that the two companies were in agreement as to the terms of installation and operation. On August 7, 1913, the applicant advised that no agreement could be reached with the Santa Fe in this matter, and a public hearing was thereafter held, which resulted in an order issued on October 8, 1913, requiring the installation of an interlocking plant, the expense of which was to be borne by applicant, and the maintenance of which was to be divided equally between the two companies. The order required plans to be filed with the Commission in accordance with General Order No. 33, ninety (90) days after the date of the order. This time was extended and plans were eventually filed on November 3, 1914, and were approved by the Commission four days afterwards.

In addition to the main line crossings to be taken care of by the interlocking there was a spur track within interlocking limits which was also fully interlocked during the original construction. Before the plant was completed and ready for inspection, the H. G. Nau Company

constructed a warehouse on the Santa Fe track, and a spur track was built by that company to serve this building. The switch governing this spur track is within the interlocking limits, and instead of installing the usual interlocking protection an outlying switch lock was substituted. When it became necessary to apply to the Commission for approval of this change in plans the companies were unable to agree, and the matter was set for a further hearing, which was held at San Bernardino on December 20, 1915.

The outlying switch lock consists in its essential parts of a mechanical lock, the control of which is allowed or prevented by an electric magnet, which is controlled by a lever in the tower. The lever energizes the electric lock on the outlying switch lock and locks conflicting moves. When the leverman has reversed the lever that controls the outlying switch lock, and after the switch itself has been reversed, it is impossible to place the lever in the interlocking tower back in the normal position, thus releasing the conflicting routes, until after the switch is replaced in its normal position and locked. In this particular case, the switch can not be unlocked until the derails on the main line of the Pacific Electric are open and the signals are in stop position and the Santa Fe track is similarly protected. In other words, while the switch lock is open the towerman can not set up a conflicting route, although he can admit Santa Fe trains into the plant to use the switch. The cost of a switch lock is from \$500.00 to \$700.00, while full interlocking for the same switch would cost from \$2,200.00 to \$2,400.00.

The Pacific Electric opposed the use of a switch lock, on the ground that it was not as safe as a standard plant, that it would result in delays to Pacific Electric trains, and that in this installation a switch similarly located in the plant was fully protected at the expense of the Pacific Electric. It is the company's belief that the switch under consideration in this matter should be safeguarded by full interlocking protection.

As far as safety is concerned, it appears that the danger from the outlying switch lock, as compared with the full interlocking, lies in the fact that the derail on the spur track could be disconnected without the towerman being aware of the fact, and he could admit a second train into the plant which might come in contact with the first train, provided that train, through an accident or mistake of the crew, "split" the switch protected by the outlying lock and went to the main line of either track. It was stated, however, that with the electric wiring carried through the derail it would be impossible for this to happen; and this was admitted to be true by the representatives of both companies. If this were done, the only difference between an outlying switch lock and standard interlocking protection would be the greater liability of the former to get out of order, and this does not appear to be of great importance.

In regard to the matter of delays, the opposition of the Pacific Electric appears to be of more force. The use of an outlying switch lock undoubtedly slows down the operation of an interlocking plant, although the number and extent of the delays will rest largely with the towerman and the train crews of the line using the switch protected by the switch lock. In this case, where the Pacific Electric has spent some \$20,000.00 on an interlocking plant and has fully protected a Santa Fe switch situated similarly to the one now under consideration, the attitude of the Pacific Electric in not wishing a slower mode of protection, on a switch to be installed, is not unreasonable. It seems to me, however, that this objection can be considered better after the plant has been in operation for some time than it can at the present time, when the number and extent of the delays are problematical. I believe on the whole, without expressing a general opinion in regard to the use of switch locks in interlocking limits, that in this case the outlying switch lock, if wired through the derail as suggested, will make the plant entirely safe and that it should be given a trial before it is decided that the delays it will occasion the trains of the Pacific Electric will be great enough to justify the additional expenditure of from \$1,500.00 to \$1,900.00. In arriving at this conclusion I have in mind the fact that the outlying switch lock is such a comparatively new departure in signal engineering that neither the signal engineer for the Santa Fe nor the signal engineer for the Pacific Electric were entirely familiar with its possibilities, and that it may often happen in the future that the cheaper installation will safely protect spur tracks and enable territory in the vicinity of interlocking plants to be used for industrial purposes which could otherwise be so used only by the installation of the more expensive devices at a cost which might often be so high as to be prohibitive.

The cost of this additional protection is fully covered in the contract between the two companies and will be borne by the Santa Fe. The change in the plant made by this installation will necessitate a new set of plans for the entire plant, and the expense of these plans should be borne by the Santa Fe.

I recommend the following form of order:

SUPPLEMENTAL ORDER.

A further hearing having been held in regard to the application of the Pacific Electric Railway to cross the track of the Santa Fe and the matter of the installation of an outlying switch lock to protect a spur track to serve the H. G. Nau Company warehouse having been considered, and it appearing that this installation should be permitted subject to certain conditions.

It is hereby ordered that The Atchison, Topeka and Santa Fe Railway Company be and the same is hereby permitted to install an

outlying switch lock on the spur track in question, subject to the following conditions, viz:

1. The outlying switch lock shall be so wired through the derail on the spur track that an indication of its position shall be given in the tower, and it shall be connected up in such a manner that it will be impossible to lock the outlying switch lock unless the derail is in position.

2. Plans for this wiring and revised plans for the entire plant shall be submitted to the Commission within ninety (90) days from the date of this order, and the cost of these revised plans and the work thereunder shall be borne by The Atchison, Topeka and Santa Fe Railway Company.

3. The Pacific Electric Railway may, if it desires, keep a check on delays to trains occasioned at the interlocking plant by the outlying switch lock, and if it appears to the Commission that these delays are such as to make it reasonable that the outlying switch lock should be replaced by standard interlocking protection, the Commission reserves the right to order such a change made.

4. The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of this crossing as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of January, 1916.

DECISION No. 3031.

IN THE MATTER OF THE APPLICATION OF ARCATA AND MAD RIVER
RAILROAD COMPANY FOR ORDER RELIEVING PETITIONER FROM
PROVISIONS OF CHAPTER 494 OF THE LAWS OF 1915.

Application No. 2032.

Decided January 6, 1916.

REPORT OF THE COMMISSION.

Arcata and Mad River Railroad Company having applied to this Commission for an order permitting applicant's engineers, firemen, conductors, brakemen, other trainmen and dispatchers to receive, deliver and transmit at any and all receiving or forwarding telephone or telegraph instruments all orders for the movement of its trains, and

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the Commission being of the opinion, after careful investigation, that the facts peculiar to the operation of this railroad makes it unnecessary that there be a full and complete compliance by applicant with the requirements of chapter 494 of the Laws of 1915,

It is hereby ordered that this application be and the same is hereby granted.

Dated at San Francisco, California, this 6th day of January, 1916.

DECISION No. 3032.

THE SEVENTH STREET AND SOUTH SIDE IMPROVEMENT CLUB
vs.
SOUTHERN PACIFIC COMPANY.

Case No. 895.

Decided January 6, 1916.

E. Nushaumer, for Complainant.

Geo. D. Squires, for Defendant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is a complaint on behalf of the Seventh Street and South Side Improvement Club, a civic organization of the city of Oakland, alleging that the opening of the gates on the trains of the "Seventh Street Local" line of the Southern Pacific Company's Oakland-Alameda-Berkeley electric system is conducted in a manner that is unsafe and inconvenient for the patrons of such line, and that an order of this Commission should issue compelling the defendant to open the gates on the south side of Seventh street at all station stops.

A public hearing was held at San Francisco on January 6, 1916, and after some testimony had been introduced and the attorney for the defendant had outlined the regulations which were effective and had agreed to give same publicity, such compromise appearing satisfactory the attorney for the complainant requested that the complaint be withdrawn.

I therefore recommend that the case be dismissed without prejudice and suggest the following form of order:

ORDER.

Seventh Street and South Side Improvement Club having complained of the alleged unsafe practice of the Southern Pacific Company in the matter of the opening of gates on its passenger cars operated on the so-called "Seventh Street Local" line of the Oakland-Alameda-Berkeley

electric system, a public hearing having been held and the attorney for the complainant having requested that the complaint be withdrawn.

It is hereby ordered that this case be and the same hereby is dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of January, 1916.

DECISION No. 3033.

IN THE MATTER OF THE APPLICATION OF MOUNTAIN LIGHT AND WATER COMPANY AND BROOKDALE LAND COMPANY TO TRANSFER CERTAIN PROPERTY.

Application No. 1940.

Decided January 8, 1916.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas the Railroad Commission by Decision No. 2958, dated December 4, 1915, authorized Brookdale Land Company to sell the property described in said decision to Mountain Light and Water Company, and authorized said Mountain Light and Water Company to execute a mortgage or deed of trust securing the payment of \$23,500.00 face value of bonds, said mortgage or deed of trust to be substantially in the same form and tenor as the mortgage or deed of trust attached to the application and marked "Exhibit G"; and

Whereas applicants herein on December 23, 1915, filed a supplemental application asking authority to amend the mortgage or deed of trust heretofore approved so as to extend the lien of the mortgage or deed of trust to all the property of Mountain Light and Water Company now owned or hereafter acquired, except independent water power or light plants, which said company may hereafter acquire; to provide for the appointment of a receiver in case of default, and to empower trustees in case of default to declare the principal of the bonds due and payable, all of which amendments, together with certain other minor changes, are set forth in the supplemental application herein and are incorporated in the mortgage or deed of trust attached to the supplemental application, said mortgage or deed of trust having been marked "Exhibit G Amended"; and

Whereas applicants also ask authority to modify the agreement of sale between Brookdale Land Company and Mountain Light and Water

Company, dated October 25, 1915, as set forth in "Exhibit B Amended", and good cause appearing.

It is hereby ordered that Mountain Light and Water Company be given authority and it is hereby given authority to execute a mortgage or deed of trust substantially in the same form and tenor as the mortgage or deed of trust attached to the supplemental application herein, and marked "Exhibit G Amended", in lieu of the mortgage or deed of trust approved by Decision No. 2958, dated December 4, 1915.

It is hereby further ordered that Brookdale Land Company be given authority and it is hereby given authority to transfer and sell to Mountain Light and Water Company its water and electric light plant, situate in the county of Santa Cruz, State of California, and particularly described in "Exhibit B Amended" as follows, to wit:

"First—(a) All property of whatsoever kind or character, wheresoever situate, in any manner used by, connected with, or belonging (either directly, indirectly or incidentally) to the water plant situated at and near the town of Brookdale, Santa Cruz County, California, and which includes among other things, all springs and waters, including all underground waters, flowing or otherwise, on, over or under any lands situate in sections 31 and 32 in township 9 south, range 2 west, M. D. B. and M.; also all water rights or privileges in or to Clear Creek and the San Lorenzo River, or the waters therein or in any of the branches or tributaries of said Clear Creek or said river, or in or to the waters therein, where said creek or river or branches are located in said sections 31 or 32 aforesaid, except the rights in said San Lorenzo River heretofore conveyed by said first party or its predecessors in interest, to A. H. Breed.

(b) Also, all rights of way and easements belonging to first party or utilized by it for flumes, flume-lines, pipes, pipe-lines, reservoirs, spillways for reservoirs and overflows of waters therefrom, and other spillways for other flows from any portion of said water system, also for roads, trails, streets, alleys and for all purposes in any manner necessary, required or convenient for the reasonable maintenance, operation, extension, improvement or repair of the water or light plants herein agreed to be conveyed, also all necessary rights of ingress and egress to, from or over private properties in which said first party may now own, or may hereafter acquire any right, title or interest, or otherwise.

(c) Also, all reservoirs, flumes, dams, flume-lines, intakes, pipes, pipe-lines, mains, laterals, service-pipes, spillways, drains, tools, implements, meters, machinery of every kind and character, water wheels, lumber and other materials of every kind and character owned by said first party, and now or heretofore, used, or intended for the use, of said water plant, or connected therewith.

Second—All property of whatsoever kind or character wheresoever situate in any manner used by, connected with or belonging (either directly, indirectly or incidentally) to the electric light plant situate at and near the town of Brookdale, aforesaid, and which property includes among other things, all waters, water rights or privileges, or other rights and privileges, in and to the said Clear Creek and the San Lorenzo River, and the branches and tributaries thereof, and the waters therein, as set forth and described in subdivision (a) of paragraph marked 'First' herein:

Also all rights of way and easements as set forth and described in subdivision (b) of the paragraph marked 'First' herein, and in addition thereto the same rights of way and easements for the wires, poles, pole-lines, and for all other purposes in any manner connected with the maintenance, operation, extension, improvement and repair of said electric light plant, or any portion thereof, so far as can be done.

Also, all reservoirs, etc., as set forth in subdivision (c) of said paragraph marked 'First' herein, in any manner connected with said electric light plant, or the operation thereof, and in addition thereto, all generators, dynamos, motors,

exciters, switches, switchboards, meters, wires, poles, pole-lines, insulators, and all other machinery, tools, implements and materials in any manner connected with said electric light plant, wheresoever situate.

Third—A perpetual right of way to lay pipe-lines on, over or under the surface, or to construct or erect poles and pole-lines, transformers, wires and any other equipment, over and across, any and all streets, roads, walks, trails, or alleys of said town of Brookdale, or on, over or across or under any property owned or possessed by said first party, or which it may hereafter acquire, in or near said town of Brookdale, and which may be deemed necessary, economical or convenient for the maintenance, operation, extension, improvement or repair of said water or light plants, or any portion thereof.

Fourth—All of lot 11, block F, as the same is so marked and designated on the map of Brookdale, Santa Cruz County, California, printed by the Union Lithograph Company of San Francisco, California, together with all improvements thereon; including also the mill plant thereon, with all machinery and every other machinery of whatsoever kind or character, whether connected with said water and electric light plants or not; including all saws, tools, implements, belting, shafting, pulleys, iron, lumber and all other equipment and materials of every kind and character on said premises or belonging thereto or connected therewith wheresoever situate.

Fifth—The following described tract of land: Commencing at the point of intersection of the easterly line of Reed street in said town of Brookdale, with the southerly line of the Southern Pacific Railroad right of way, which said Reed street shall be extended to said right of way by said first party, and running thence southerly along said easterly line of said Reed street a distance of eighty (80) feet; thence running easterly along a line parallel with said line of said right of way a distance of one hundred and fifty (150) feet; thence running northerly along a line parallel with said easterly line of said Reed street a distance of eighty (80) feet to said line of said right of way; thence running westerly along said line of said right of way a distance of one hundred and fifty (150) feet to the point of commencement.

Sixth—A tract of land along the bed and banks of said San Lorenzo River, as said river is described in said paragraph marked 'First' herein, including all of said bed and banks not heretofore conveyed by said first party, including the right to erect and construct a dam or dams across said river at one or more points for manufacturing, power, commercial or pleasure purposes and to thereby raise the water flowing in said river to such height as shall be necessary for either or all of such purposes;

Also, so much land adjoining the banks of said river as may be required for securing the foundation of said dams and for the erection of power houses and necessary use thereof; provided, however, that the party of the second part, its successors and assigns, within one year from the first day of December, 1915, shall serve upon said first party a notice in writing designating the lands adjoining the banks of said river as aforesaid, required for such purposes, and file for record a copy thereof, duly acknowledged and certified, with the county recorder of Santa Cruz County, State of California; it being agreed that should said second party fail to serve and file said notice as aforesaid, then all rights herein granted to select any lands adjoining the banks of said river as aforesaid, for the purposes aforesaid, shall become inoperative and void;

Also, the following tract of land: Commencing at a point on the northerly line of the right of way of the Southern Pacific Railway Company due south of the point on the south bank of the San Lorenzo River where the sewer line of the town of Brookdale leaves said bank to cross said river, thence running easterly along said northerly line of said Southern Pacific right of way to the southwesterly corner of the lands owned by Mrs. R. C. Judkins, formerly Mrs. Emma Jenkins; thence running northerly along the northwesterly line of said lands of Mrs. R. C. Judkins to the northwesterly corner of said lands of Mrs. R. C. Judkins, and thence continuing in a straight line to the intersection of said line with the 1/16 section line of said section 32, township 9 south, range 2 west, M. D. B. and M., said 1/16 section line being the north boundary line of the lands owned by the party of the first part;

thence running west along said 1/16 section line to its intersection with the southerly bank of said San Lorenzo River; thence running easterly along the southerly bank of said San Lorenzo River to its intersection with the said sewer line of said town of Brookdale; thence running south to the point of commencement. It is understood and agreed that said party of the second part, its successors and assigns, shall have no right or power or authority, and that none is hereby granted to said second party to use any lands for dam foundations, or for the erection of power houses upon any portion of the lands contained in this subdivision of paragraph 'Sixth' which lie west of the said sewer line where it crosses said river.

It is understood and agreed that the acceptance of the title to any property hereunder shall not be construed as imposing any duty or obligation upon the party of the second part in reference to said sewer system; it being understood that there is reserved to parties using said sewer the right to have the septic sewer tanks now on said property remain thereon, but that said second party neither accepts nor assumes any obligation or liability in reference thereto.

It is agreed that the word 'banks' as used in this agreement when referring to the banks of the San Lorenzo River, shall be construed to mean and cover and include all lands lying on both sides of the bed of said river between the bed thereof and lines drawn along both banks of said river parallel to and two feet above the lines on the banks of said river reached by the waters flowing in said river during the period of highest flood; and in the event of one or more dams being erected across said river as aforesaid, then the word 'banks' aforesaid, shall be construed to include any additional lands lying on both sides of the banks of said river, between the bed thereof and lines drawn along both banks of said river parallel to and two feet above the water level of the top of said dam or dams.

Nothing contained in this agreement shall be construed to grant any such property, privileges or rights which said party of the first part has no right to grant.

Seventh—Two tracts of land consisting of one-half acre each adjoining the present sites of the two reservoirs now being used by said electric light plant and connected with the two power mains of said plant; said two tracts of one-half acre each to be selected by said second party within one year after the delivery of the conveyances by first party to second party of the plants of first party.

Eighth—Two rights of way each ten feet in width along the two power mains of said electric light plant running from said plant on said lot 11, block F, above described in paragraph marked 'Fourth' herein, to the two reservoirs described in paragraph marked 'Seventh' herein, being five feet on each side of the center line of each of said power mains; also, two rights of way each thirty feet in width running from said reservoirs described in said paragraph marked 'Seventh' herein, along the flume-lines connected with each of said reservoirs, respectively, to the intakes connected with said flume-lines; also any additional land on either side of said rights of way, or any other rights of way granted in this instrument, necessary or proper to be used at any time to maintain proper and convenient slopes to any road, work, improvement or development or use of any or either of said rights of way. The first party reserves the right to construct roads across said rights of way in such manner as not to interfere with said pipes and flumes.

Ninth—All that certain tract of land known and designated as John Dubuis subdivision No. 1, consisting of six hundred fifty-one and nine hundred fifteen thousandths acres (651.915), situated in section 36, township 9 south, range 3 west, and in section 31, township 9 south, range 2 west, M. D. B. and M., transferred to T. G. McCreary as trustee for said John Dubuis by said first party, excepting from said 651.915 acres those portions lying west and north of lands of J. N. Walter and the John Dubuis subdivision No. 2, consisting of 29.491 acres, and a line drawn parallel with and forty feet southeasterly from the southeasterly bank of the Sweet Water Branch of Clear Creek, and south of the south side of the wagon road running along the south side of said Clear Creek; which tract of land consists of six hundred acres or thereabouts, being a portion of the Bloom tract.

Tenth—All ownership, rights or privileges which said first party may now own or have or may hereafter in any manner acquire in or to any of the property agreed

to be conveyed as aforesaid to the second party, or any portion thereof, or any other property in any manner for any purpose necessary, proper or convenient for the maintenance, operation, extension, improvement or repair of said water or light plants, or any portion thereof, which may by virtue of any contractual or other right or interest be reserved to, or which may revert for any purpose or cause to said first party; also the right to enforce, collect and receive any such property, rights or privileges to the same extent that said first party might or could do; but nothing herein contained shall grant any portion of the real estate, other than the water rights therein, conveyed by said first party or its predecessors in interest, to the county of Santa Cruz for the purpose of maintaining and operating a fish hatchery thereon, and in the event of the reversion of said real estate, such reversion shall pass to and be held by said first party, in so far as it refers to said real estate.

Also, the right to enforce the full and complete performance in good faith of any and all restrictions and conditions of every kind and character set forth in any deed or other instrument which has heretofore, or which may hereafter be given by said first party, or its predecessors in interest, or by its successors or assigns, conveying any right, title or interest in or to any property in said town of Brookdale; and said first party hereby covenants and agrees that in all future conveyances of any property it may own in said town of Brookdale it will include all of the restrictions, conditions and limitations set forth in the form of deeds now being used by said first party, a copy of which is hereto attached and hereby made a part of this agreement, with all improvements thereon.

It is agreed that the tract of land described in the paragraph marked 'Fifth' herein is conveyed for the purpose of furnishing said second party with a lot on which to erect a manufacturing plant, and that if said second party does not erect a plant on said lot of land within two years from the date of this agreement of such size as to cost not less than five hundred dollars, then such tract of land is to revert to said first party."

It is hereby further ordered that the order found in Decision No. 2958, dated December 4, 1915, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this 8th day of January, 1916.

DECISION No. 3034.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION AUTHORIZING IT TO FILE AND ESTABLISH CERTAIN RATES FOR GAS FURNISHED IN ITS DISTRICTS OF CHICO, MARYSVILLE, NAPA AND COLUSA.

Application No. 1960.

Decided January 8, 1916.

REPORT OF THE COMMISSION.

Pacific Gas and Electric Company having filed its petition for an order authorizing said company to establish certain rates and charges for gas as set forth in the petition herein, and hereafter specified, to be charged by said Pacific Gas and Electric Company in its districts of Chico, Marysville, Napa and Colusa; and

Whereas the Commission is of the opinion that a public hearing is not necessary in this proceeding, and that the authority asked for

should be granted, provided that if complaint is made concerning said rates, the matter will hereafter be investigated by the Railroad Commission and set for hearing, if necessary; and

Whereas the authorization hereby granted is not to be taken as an adjudication by the Railroad Commission concerning the reasonableness of the rates which Pacific Gas and Electric Company desires to establish and charge in its said districts,

It is hereby ordered that Pacific Gas and Electric Company be and the same is hereby authorized to establish, effective February 1, 1916, the following rates and charges to be charged by said company for gas supplied in its districts of Chico, Marysville, Napa and Colusa:

RATE.

On the basis of monthly consumption per meter
 \$1.50 per 1,000 cubic feet for the first 5,000 cubic feet.
 1.00 per 1,000 cubic feet for the next 5,000 cubic feet.
 .80 per 1,000 cubic feet for all over 10,000 cubic feet.
 Minimum monthly charge 50 cents per meter.

Dated at San Francisco, California, this 8th day of January, 1916.

Decision No. 3035, grade crossing; not printed. See end of volume.

DECISION NO. 3036.

IN THE MATTER OF THE APPLICATION OF UNITED RAILROADS OF SAN FRANCISCO FOR AN ORDER AUTHORIZING THE ISSUE BY UNITED RAILROADS OF SAN FRANCISCO OF COUPONS ON THE FIRST MORTGAGE 6 PER CENT BONDS OF FERRIES AND CLIFF HOUSE RAILWAY COMPANY, DUE MARCH 1, 1914.

Application No. 2033.

Decided January 12, 1916.

Applicant, finding it necessary to extend the time of maturity of \$400,000.00 face value of bonds of the Ferries and Cliff House Railway Company, issued interest coupons for the years 1915 and 1916 to be attached to such bonds under the impression that the Commission's permission for such issuance was not necessary.

Held, That interest coupons are a form of indebtedness and therefore this Commission's authorization is prerequisite to their issuance. Applicant **granted** authority to issue 6 per cent interest coupons payable June 30th and December 31, 1916, to be attached to 400 bonds of the Ferries and Cliff House Railway Company.

William Abbott, for United Railroads of San Francisco.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

The petition herein alleges, in effect, that on March 1, 1889, Ferries and Cliff House Railway Company executed a deed of trust or mortgage

to secure the payment of \$650,000.00, face value, of its first mortgage bonds, maturing March 1, 1914, and bearing interest at the rate of 6 per cent per annum; that a copy of said deed of trust or mortgage is attached to the petition and marked Exhibit "A"; that on October 13, 1893, Ferries and Cliff House Railway Company consolidated and amalgamated into Market Street Railway Company, and that on March 18, 1902, Market Street Railway Company assigned all its properties to United Railroads of San Francisco, which company is now the owner and in possession thereof; that on January 21, 1914, United Railroads of San Francisco arranged for the postponement of the presentation of the bonds of Ferries and Cliff House Railway Company for payment and for the waiver of the right of the bondholders, until December 31, 1914, to foreclose the mortgage securing said bonds; that as part of this arrangement United Railroads of San Francisco paid and retired 50 of said bonds, leaving 600 bonds remaining unpaid; that on or before December 31, 1914, United Railroads of San Francisco paid and canceled 200 additional of said bonds, thus leaving 400 bonds outstanding; that on December 13, 1914, United Railroads of San Francisco entered into an arrangement with E. H. Rollins & Sons for the further postponement and presentation of said 400 bonds for payment and for a waiver until December 31, 1916, of the right of the bondholders to foreclose the mortgage securing said bonds; that a copy of the agreement with E. H. Rollins & Sons is attached to the petition and marked Exhibit "C"; that as a part of the consideration of said agreement United Railroads of San Francisco agreed to supply E. H. Rollins & Sons on or before December 31, 1914, with 4 coupons for interest upon each of said 400 bonds of Ferries and Cliff House Railway Company remaining unpaid, promising in apt words to pay interest on each of said 400 bonds at the rate of 6 per cent per annum, payable semiannually on June 30th and December 31, 1915 and 1916; that in pursuance of said agreement, United Railroads of San Francisco supplied said interest coupons and attached the same to each of said 400 bonds of Ferries and Cliff House Railway Company; and that at the time of entering into the arrangement with E. H. Rollins & Sons, United Railroads of San Francisco was advised and believed that the consent of the Railroad Commission to the issue of the coupons herein referred to for interest was not necessary and that in accordance with said advice and belief, this Commission's consent was not asked for. Petitioner asks for an order ratifying and confirming the issue by United Railroads of San Francisco of said interest coupons.

A public hearing on this application was held in San Francisco on January 7, 1916. At the hearing, petitioner asked for and was granted leave to amend the prayer of its petition so as to ask that an order be

issued authorizing it to issue new interest coupons, payable June 30, 1916, and December 31, 1916, in lieu of the coupons heretofore issued purporting to be payable on said dates.

The evidence shows that in December, 1914, or January, 1915, United Railroads of San Francisco issued the interest coupons which are referred to in the petition, payable respectively on June 30, 1915, December 31, 1915, June 30, 1916, and December 31, 1916; that the coupons due on June 30, 1915, and December 31, 1915, have been paid out of earnings and canceled; and that the coupons due June 30, 1916, and December 31, 1916, are still outstanding.

The evidence further shows that these interest coupons were issued by United Railroads of San Francisco without having secured the consent of the Railroad Commission, on the advice of counsel for E. H. Rollins & Sons to the effect that this Commission's consent was not necessary.

Section 52 of the Public Utilities Act provides in part that "a public utility may issue stocks and stock certificates, and bonds, notes and other evidences of indebtedness payable at periods of more than twelve months after the date thereof" for the purposes specified in the section, but only after such public utility "in addition to the other requirements of law, shall first have secured from the commission an order authorizing such issue and stating the amount thereof and the purpose or purposes to which the issue or the proceeds thereof are to be applied, and that, in the opinion of the commission, the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order, and that, except as otherwise permitted in the order in the case of bonds, notes or other evidences of indebtedness, such purpose or purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income."

As the interest coupons which United Railroads of San Francisco attached to the bonds of Ferries and Cliff House Railway Company are clearly promises to pay interest, they constitute "notes" and also "evidences of indebtedness," as those words are used in section 52 of the Public Utilities Act. Hence, in so far as such interest coupons were payable at periods of more than twelve months after the date of their issue, this Commission's authority for the issue thereof should have been secured.

I am satisfied from the evidence that United Railroads of San Francisco acted in good faith and with no intention of violating the Public Utilities Act, and recommend that this Commission authorize the issue by United Railroads of San Francisco of new interest coupons to be issued in lieu of those which are now outstanding and void.

A suggestion was made at the hearing that United Railroads of San Francisco could accomplish its purpose by adopting a resolution ratifying and confirming the issue of these coupons.

I am of the opinion that an act which is absolutely prohibited by statute and which affects the public policy of the State, can not be ratified. Such act is absolutely void and not merely voidable. While it will not be necessary for United Railroads of San Francisco to call in the outstanding bonds, I am of the opinion that it will be necessary to substitute new coupons for those which are now outstanding. There must be an execution and delivery of the new coupons. In view of the possibility that it may be difficult to find some of the outstanding bonds, I suggest that United Railroads of San Francisco be given until July 31, 1916, within which to call in the existing coupons and issue the coupons herein authorized.

I submit the following form of order:

ORDER.

United Railroads of San Francisco having filed a petition asking for an order of the Railroad Commission authorizing the issue of interest coupons, as hereinafter specified, and a public hearing having been held upon said application and it appearing that said interest coupons will be paid at maturity from the earnings of United Railroads of San Francisco, and that this application should be granted,

It is hereby ordered that United Railroads of San Francisco be and the same is hereby authorized to issue its interest coupons bearing interest at the rate of 6 per cent per annum, and payable respectively on June 30, 1916, and December 31, 1916, to be attached to the 400 bonds of Ferries and Cliff House Railway Company now outstanding, one interest coupon payable June 30, 1916, and one interest coupon payable December 31, 1916, to be attached to each bond, on the following conditions and not otherwise, to wit:

1. United Railroads of San Francisco shall call in the interest coupons payable June 30, 1916, and December 31, 1916, now attached to said bonds of Ferries and Cliff House Railway Company and shall substitute for the same the interest coupons herein authorized to be issued.

2. United Railroads of San Francisco, on or before the twenty-fifth day of each month, shall make a verified report to the Railroad Commission, in accordance with General Order No. 24, in so far as applicable, stating the issue of interest coupons during the preceding month and the numbers of the bonds to which said coupons have been attached.

3. The authority hereby granted shall not become effective until United Railroads of San Francisco has paid the fee specified in section 57 of the Public Utilities Act.

4. The authority herein given shall apply only to such interest coupons as shall have been issued on or before July 31, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of January, 1916.

DECISION No. 3037.

IN THE MATTER OF THE RATES OF THE PULLMAN COMPANY FOR
SERVICE RENDERED WITHIN THE STATE OF CALIFORNIA ON
INTRASTATE BUSINESS.

Case No. 682.

Decided January 12, 1916.

REPORT OF THE COMMISSION.

In 1914 this Commission conducted an inquiry, on its own motion, into the rules, regulations and practices of the Pullman Company which resulted in a report by this Commission on April 25, 1914, calling the attention of the Pullman Company to certain rules and regulations of that company, and practices of its employees, which the Commission believed could be changed and improved, to the benefit of the traveling public. The changes and improvements suggested by the Commission were adopted by the Pullman company with the result that, since such action, practically no complaints have come to the Commission, whereas before they were of frequent occurrence.

This investigation of the Commission, however, seemed to point to the advisability of having the rates of the Pullman company investigated, particularly as to the relation which those rates bear to the wages paid by the company to its employees, and the present Case No. 682 was set down for hearing upon the Commission's own motion. Correspondence with the Pullman company, and conferences with its representatives, as well as correspondences with the Interstate Commerce Commission, followed as a part of this Commission's investigation.

Largely as a result, we believe, of these investigations, the Pullman company has granted an increase in wages to its conductors and porters, the gross amount of which is said to be in the neighborhood of \$600,000.00 a year.

In view of the fact that the Pullman company has improved its service and given the increase in wages to its employees, as noted above, and in view of the further fact that this Commission can, at any time, again take up this matter, and with the understanding that the Commission will expect the Pullman company to continue its improved service, this case will be dismissed without prejudice.

ORDER.

Good cause appearing.

It is hereby ordered that the above entitled proceeding be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 12th day of January, 1916.

DECISION No. 3038.

IN THE MATTER OF THE APPLICATION OF SUTTER-BUTTE CANAL COMPANY FOR AUTHORITY TO ISSUE CERTAIN PROMISSORY NOTES IN RENEWAL OF NOTES NOW OUTSTANDING.

Application No. 2007.

Decided January 12, 1916.

REPORT OF THE COMMISSION.**FIRST SUPPLEMENTAL ORDER.**

Whereas applicant was on the 4th day of January, 1916, by order of the Commission (Decision No. 3029) granted authority to issue certain three-year 6 per cent promissory notes in the total sum of \$256,100.00 for the purpose of refunding at maturity the principal and cumulated interest on certain notes, as set forth in Exhibit "A" attached to said decision; and

Whereas in its original application Sutter-Butte Canal Company requested permission to issue said notes in such form that they should be payable on or before three years after date instead of being payable three years after date; and

Whereas as set forth in said Decision No. 3029, at the date of said decision "approximately 85 per cent of the noteholders have signed an agreement consenting to a refunding of their notes upon the basis outlined in this application"; and

Whereas applicant on January 11, 1916, filed a supplemental application stating that since the filing of the original application some of said nonconsenting noteholders have definitely refused to assent to said refunding agreement and as to others thereof applicant has not yet definitely arranged for a refunding of its indebtedness due them, but that some of said nonconsenting noteholders have offered to accept from applicant, upon payment of accrued interest, renewal notes payable within one year after their date and that as to all of said nonconsenting noteholders applicant may be compelled in arranging for the refunding of its indebtedness due them to pay them the accumulated interest upon their respective notes and to issue to them their renewal notes payable one year after date; and

Whereas applicant states that all of said consenting noteholders referred to in said original application have agreed with applicant to accept from it renewal notes payable on or before three years after date thereof instead of notes payable three years after date; and

Whereas applicant, by its supplemental petition, has requested that said order be modified as hereinafter set forth; now, therefore,

It is hereby ordered that the order heretofore made herein on January 4, 1916, be and the same is hereby amended, and applicant is hereby authorized to issue to all of said consenting noteholders, and to any of said nonconsenting noteholders who may accept the same in pursuance of said refunding agreement, its renewal promissory notes payable on or before three years after date thereof, instead of notes payable three years after date, and that applicant be further authorized to issue to said 15 per cent or thereabouts of nonconsenting noteholders its renewal notes payable on or before one year after date, or in the alternative, notes payable on or before three years after date, as the circumstances of the case may require.

Dated at San Francisco, California, this 12th day of January, 1916.

DECISION No. 3039.

IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY, AND THE CALIFORNIA, ARIZONA AND SANTA FE RAILWAY COMPANY FOR AN ORDER AUTHORIZING THEM TO ENTER INTO AN AGREEMENT WHEREBY THE SAID THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AND THE SAID CALIFORNIA, ARIZONA AND SANTA FE RAILWAY COMPANY GRANTS TO THE SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY THE RIGHT TO CONNECT WITH AND USE THAT PORTION OF THE LINE OF RAILROAD OWNED OR LEASED BY THE FORMER NAMED COMPANIES, RUNNING FROM DAGGETT TO A POINT NEAR RIVERSIDE, TOGETHER WITH CERTAIN TRACKS, FACILITIES AND APPURTENANCES, FOR A TERM OF NINETY-NINE YEARS.

Application No. 2000.

Decided January 11, 1916.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Good cause appearing,

It is hereby ordered that the order in the above entitled proceeding heretofore made on December 31, 1915, be and the same is hereby amended so as to read as follows:

"It is hereby ordered that this application be and the same is hereby granted; provided that the power of the State of California and of

any board or tribunal thereof to regulate and control the corporations, parties hereto, their successors and assigns, or their business, shall be deemed in no wise limited or affected by this order."

Dated at San Francisco, California, this 14th day of January, 1916.

Decision No. 3040, grade crossing; not printed. See end of volume.

DECISION No. 3041.

IN THE MATTER OF THE APPLICATION OF SATICOY WATER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF A PROMISSORY NOTE FOR SIX THOUSAND DOLLARS.

Application No. 1991.

Decided January 14, 1916.

Applicant applies for and is granted permission to issue a three-year promissory note bearing interest at 7 per cent per annum, such note to be issued at its face value in exchange for a note heretofore issued without proper authorization.

REPORT OF THE COMMISSION.

This is an application of Saticoy Water Company, operating in Ventura County, and hereinafter designated and referred to as the "Water Company," for an order authorizing it to issue a promissory note for \$6,000.00.

A public hearing was held in Ventura on December 18, 1915. From the evidence it appears that the water company was organized in 1897 by a number of farmers and other landholders residing about eight and one-half or nine miles east of Ventura, for the purpose of supplying themselves with water for domestic purposes, of which they were badly in need, and for the further purpose of furnishing water for sprinkling the county road. The county of Ventura paid for a large portion of the water company's pipe, in return for which the company agreed to give it free water for a number of years for road sprinkling purposes.

The company has a total authorized capital of \$15,000.00 of common stock, consisting of 600 shares of the par value of \$25.00 each, of which 437 shares of the total par value of \$10,925.00 are now issued and outstanding. It has at present 121 consumers and furnishes water for domestic and road sprinkling purposes only. Those of its consumers who use water for irrigation purposes obtain their water from the Alta Mutual Water Company. Applicant has two good flowing wells in addition to one well which has been practically abandoned. In addition to the wells applicant's plant consists of approximately 22,000 feet of metal pipe under 6 inches in diameter, and approximately 19,000 feet of pipe 12 inches or over in diameter. The latter consists of approximately 11,000 feet of concrete pipe, 3,000 feet of wooden pipe and

5,000 feet of metal pipe. The water company also has a 40-horsepower gasoline engine and two triplex pumps which are reported by the company to be in good condition, but which are not at present in actual use for the reason that applicant has a contract with the Alta Mutual Water Company by which the latter agrees to pump all the water that applicant needs for its consumers, not to exceed 43 inches, for the sum of \$85.00 per month. Prior to the making of this contract applicant was under an expense of approximately \$140.00 per month for its own pumping.

Applicant has spent considerably over \$10,000.00 upon its plant in addition to the amounts it has used for meeting its annual deficits. The water company has not had a prosperous career.

The company's operating revenues and operating expenses for the years ending December 31, 1912, 1913 and 1914 were reported as follows:

	1912	1913	1914
Operating revenues -----	\$5,383 70	\$5,091 24	\$4,177 80
Operating expenses -----	8,189 17	4,544 48	3,710 02
Net income -----	*\$2,805 47	\$546 76	\$467 78

*Deficit.

The company's balance sheet shows assessments in the sum of \$20,557.66, of which amount \$15,892.66 was levied in 1912.

The physical properties of the water company are apparently now in reasonably satisfactory condition, and from the figures above set forth it will be seen that the receipts are now above the operating expenses. The company has no mortgage or bonded indebtedness but it has two outstanding notes—one for \$1,250.00 payable to the First National Bank of Santa Paula, dated September 6, 1913, due one day after date and bearing interest at the rate of 7 per cent per annum. The other note is for \$6,000.00, payable to Charles Barnard, dated April 1, 1913, payable three years after date and bearing interest at the rate of 7 per cent per annum. This second note, although made in the name of Charles Barnard, was given for money furnished by the Thomas Bard Estate and is at present owned by that estate. This note was issued by the water company without obtaining the consent of this Commission, but from the evidence it appears that it was issued in ignorance of the law, and in good faith, and the application now before us is for the purpose of securing authority to issue a new note in lieu of the note above mentioned.

ORDER.

Saticoy Water Company having applied for an order authorizing the issue of its promissory note in lieu of its three-year note for \$6,000.00, payable to Charles Barnard and bearing date of April 1, 1913, and a

public hearing having been held on said application and the Railroad Commission finding that the purposes for which it is proposed to issue said note are not in whole or in part reasonably chargeable to operating expenses or to income, and that the application should be granted,

It is hereby ordered that Saticoy Water Company be and the same is hereby authorized to issue its promissory note payable to the Thomas Bard Estate for \$6,000.00 for a term not exceeding three years from April 1, 1916, bearing interest at 7 per cent per annum.

The authority herein granted is granted upon the following conditions, and not otherwise, to wit:

1. Saticoy Water Company shall issue said note so as to net not less than the face value thereof.

2. The note herein authorized shall not be issued until said alleged note for \$6,000.00 bearing the date of April 1, 1913, and now held by the Thomas Bard Estate shall have been surrendered to said Saticoy Water Company and shall have been canceled by it.

3. Said note herein authorized shall not be issued later than June 30, 1916.

4. Saticoy Water Company shall report to the Railroad Commission within thirty days after the note herein authorized to be issued shall have been issued, the face value, the date, maturity, rate of interest and the payee of said note.

5. This order shall not become effective until Saticoy Water Company has paid the fee specified in section 57, as amended, of the Public Utilities Act.

Dated at San Francisco, California, this 14th day of January, 1916.

DECISION No. 3042.

IN THE MATTER OF THE APPLICATION OF SUTTER-BUTTE CANAL COMPANY FOR AUTHORITY TO ISSUE ITS CERTAIN RENEWAL PROMISSORY NOTE OF THE FACE VALUE OF FIFTY THOUSAND DOLLARS.

Application No. 2044.

Decided January 11, 1916.

Henry Ingram, for Applicant.

REPORT OF THE COMMISSION.

This is an application for an order authorizing the issue by Sutter-Butte Canal Company of a one-day promissory note in renewal of a note for \$50,000.00, bearing interest at the rate of 6 per cent per annum

and issued by it to the Crocker National Bank of San Francisco on February 18, 1913.

A public hearing was held in San Francisco on January 11, 1916. The evidence shows that the note for \$50,000.00, payable to the Crocker National Bank, was given for the purpose of refunding a one-day note of like amount, payable to the First National Bank of San Francisco. The note in favor of the First National Bank had been issued in November, 1911.

ORDER.

Sutter-Butte Canal Company having applied for an order authorizing the issue of its promissory note in renewal of its one-day promissory note for \$50,000.00, payable to the Crocker National Bank of San Francisco, and bearing interest at the rate of 6 per cent per annum and dated February 18, 1913, and a public hearing having been held upon said application, and the Railroad Commission, finding that the said application should be granted,

It is hereby ordered that Sutter-Butte Canal Company be and the same is hereby authorized to issue its one-day promissory note for \$50,000.00 to the Crocker National Bank in renewal of the said note in this order above mentioned. The authority herein granted is granted upon the following conditions and not otherwise:

1. Sutter-Butte Canal Company shall issue said note so as to net not less than the face value thereof.
2. Within thirty days after the note herein authorized to be issued, shall have been issued, applicant shall report such fact to this Commission, together with a statement of the face value of the note issued, the date, maturity, rate of interest, and payee of said note.
3. The note herein authorized shall not be issued by applicant later than March 31, 1916.
4. This order shall not become effective until Sutter-Butte Canal Company has paid the fee specified in section 57, as amended, of the Public Utilities Act.

Dated at San Francisco, California, this 14th day of January, 1916.

DECISION No. 3043.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY OF CALIFORNIA FOR PERMISSION TO ISSUE CAPITAL STOCK AND DEBENTURES AND FOR APPROVAL OF A CERTAIN FINANCIAL AGREEMENT.

Application No. 1999.

Decided January 15, 1916.

Applicant was heretofore authorized to issue \$5,000,000.00 ten-year debenture bonds to be sold at 91, proceeds to be used as follows: (1) \$3,000,000.00 to acquire stock of the City Electric Company now held by Great Western Power Company; (2) \$1,500,000.00 for the purpose of constructing a transmission line from Big Bend to Oakland; (3) \$250,000.00 for the purpose of laying two cables under San Francisco Bay. Applicant now desires to use the proceeds of these bonds for the purposes of purchasing City Electric stock as heretofore provided, the balance for the purchase of Great Western Power bonds in the principal sum of \$849,000.00, and City Electric Company bonds in the principal sum of \$1,050,000.00, which amended application is granted; provided that the amount paid Great Western Power Company for City Electric stock shall only be expended by Great Western Power Company as directed by this Commission, the same as if such sum represented the proceeds of securities authorized by this Commission.

Guy C. Earl and Chaffee E. Hall, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

SECOND SUPPLEMENTAL OPINION.

In the above entitled proceeding Great Western Power Company of California has filed a supplemental application asking the Railroad Commission to make its order authorizing the expenditure by Great Western Power Company of California of the proceeds of the debentures, the issue of which was authorized by the decision of December 20, 1915, in the above entitled proceeding, for the following purposes:

- | | |
|--|----------------|
| 1. For the purchase from Great Western Power Company of \$4,998,000.00 par value of the common capital stock of City Electric Company ----- | \$3,000,000 00 |
| 2. For the purchase from Western Power Company, a New Jersey corporation, of a part of the following bonds at ninety (90%) per cent of the face value thereof, to wit: | |
| (a) \$849,000.00 face amount, first mortgage 5 per cent forty-year sinking fund gold bonds of Great Western Power Company ----- | 764,100 00 |
| (b) \$1,050,000.00 face amount of first mortgage 5 per cent thirty-year sinking fund gold bonds of City Electric Company ----- | 945,000 00 |

In its decision dated December 29, 1915, the Railroad Commission authorized applicant herein to expend the proceeds obtained from the sale of \$5,000,000.00 face amount of ten-year 6 per cent convertible gold debentures, payable November 1, 1925, for the following purposes:

1. Proceeds from the sale of said debentures not in excess of the sum of \$3,000,000.00 may be used for the purchase of \$4,998,000.00, par value, of the capital stock of City Electric Company.
2. Proceeds from the sale of said debentures not in excess of the sum of \$1,500,000.00 may be used for the construction of a second transmission line from Big Bend to Oakland.
3. Proceeds from the sale of said debentures not to exceed the sum of \$150,000.00 may be used for the construction of a third cable across San Francisco Bay, from Alameda County to San Francisco.
4. Proceeds from the sale of said debentures not to exceed the sum of \$100,000.00 may be used for the construction of a fourth cable across San Francisco Bay, from Alameda County to San Francisco.

Applicant by the decision of December 20, 1915, was authorized to sell its ten-year 6 per cent convertible gold debentures at not less than 91 per cent of the face value thereof, plus accrued interest.

In the supplemental application now before the Railroad Commission, applicant asks that it be permitted to apply to the acquisition of said bonds of Great Western Power Company and City Electric Company that portion of the proceeds obtained from the sale of its debentures, which it has heretofore been authorized to use for the purpose of paying for the proposed transmission line from Big Bend to Oakland and the third and fourth bay cables. Mr. Mortimer Fleishhacker, president of Great Western Power Company of California, testified that the proposed construction program had not been abandoned, but that part of the \$3,000,000.00 to be paid for the City Electric Company stock will be used to pay for the cost of the aforementioned extensions and improvements.

As stated in Decision No. 3009, dated December 29, 1915, the stock of City Electric Company is owned by Great Western Power Company. The \$3,000,000.00 to be paid therefor, must, under the terms of the deed of trust or mortgage of Great Western Power Company, pass to the trustee under said deed of trust. At the request of Great Western Power Company, the trustee may permit said Great Western Power Company to use the \$3,000,000.00 to pay or retire its bonds or to pay for the cost of extensions, additions and betterments to the plant of Great Western Power Company. Applicant now desires to use part of the \$3,000,000.00 to pay for the cost of constructing a second transmission line from Big Bend to Oakland, and a third and a fourth cable across San Francisco Bay, from Alameda County to San Francisco. These extensions would thus become the property of Great Western Power Company and not the property of Great Western Power Company of California, as heretofore contemplated.

Assuming that Great Western Power Company of California will be able to sell its \$5,000,000.00 face value of ten-year 6 per cent convertible debentures at 91, it will realize from the sale thereof the sum of \$4,550,000.00. Deducting the \$3,000,000.00 to be paid for stock of City Electric Company, leaves a balance of \$1,550,000.00 to be applied to acquire \$849,000.00 face value of bonds of Great Western Power Company and \$1,050,000.00 face value of bonds of City Electric Company. These bonds are to be acquired at 90, which would call for a total expenditure of \$1,709,100.00. Assuming that all the bonds are purchased, the sum of \$159,100.00 will have to be obtained from sources other than the sale of debentures. Counsel for applicant stated that the \$159,100.00 may be obtained from the sale of a part of \$660,000.00 par value of preferred stock of California Electric Generating Company now owned by Western Power Company, in which event, the bonds thus purchased would become the property of Western Power Company.

By Decision No. 495, dated January 11, 1913 (Vol. 2, Opinions and Orders of the Railroad Commission of California, page 276), the Railroad Commission authorized Great Western Power Company to issue \$4,411,000.00 face value of forty-year 6 per cent bonds, payable July 1, 1946, at not less than 90 per cent of the face value and accrued interest. This is the minimum price at which said bonds may be sold under the terms of the mortgage or deed of trust. At the time of the decision, bonds of the Great Western Power Company were selling several points below the minimum price fixed by the mortgage or deed of trust.

Unable to market its bonds, Great Western Power Company called upon Western Power Company, the holding company, to aid it in financing its construction. Western Power Company agreed to purchase \$849,000.00 face value of bonds at the minimum price fixed by the Commission. It is these bonds, together with \$1,050,000.00 face value of City Electric Company bonds, which Great Western Power Company of California now desires to acquire from Western Power Company at 90 per cent of the face value.

The evidence shows that Western Power Company will use the proceeds obtained from the sale of the bonds in part to pay its \$1,000,000.00 face value of two-year 6 per cent gold notes due March 1, 1917.

Under the terms of the "Purchase Agreement," dated November 3, 1915, and attached to the application herein as Exhibit "C," Western Power Company is obligated to purchase from E. H. Rollins & Sons and W. P. Bonbright & Co. \$800,000.00 face value of City Electric Company bonds at 90 per cent of the face value and accrued interest. Great Western Power Company of California proposes to purchase \$800,000.00 of bonds from Western Power Company at the same price at which Western Power Company acquires them.

In the final analysis applicant herein proposes to refund \$849,000.00 face value of Great Western Power Company bonds and \$1,050,000.00 face value of City Electric Company bonds.

Subject to the conditions found in the order I recommend that the third supplemental application herein be granted.

I submit the following form of order:

THIRD SUPPLEMENTAL ORDER.

A public hearing having been held on the third supplemental application of Great Western Power Company of California herein, and the Railroad Commission finding that the purposes for which the proceeds from the sale of the debentures hereinbefore authorized are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Great Western Power Company of California may expend the proceeds from the sale of \$5,000,000.00 face value of ten-year 6 per cent convertible gold debentures, dated November 1, 1915, and payable November 1, 1925, the issue of which was authorized by this Commission's decision of December 20, 1915, in the above entitled proceeding for the following purposes and on the following conditions and not otherwise, to wit:

1. Proceeds from the sale of said debentures not in excess of the sum of \$3,000,000.00 may be used for the purchase of \$4,998,000.00 par value of the capital stock of City Electric Company.
2. The remaining proceeds from the sale of said debentures may be used to purchase from Western Power Company at not more than 90 per cent of the face value thereof:
 - (a) First mortgage 5 per cent forty-year sinking fund gold bonds of Great Western Power Company in the principal sum of ----- \$849,000 00
 - (b) First mortgage 5 per cent thirty-year sinking fund gold bonds of City Electric Company in the principal sum of ----- 1,050,000 00

The authority herein granted is given only subject to the following conditions:

1. The price at which the capital stock of City Electric Company is being purchased by Great Western Power Company of California, namely, the sum of \$3,000,000.00, and the price at which Great Western Power Company of California is herein authorized to purchase bonds of Great Western Power Company and City Electric Company, shall not be used before the Railroad Commission, or any other public authority, as representing for rate making, sale, issue of securities, or any other purpose, the present value of the property of City Electric Company or Great Western Power Company, or of any equity therein.

2. Great Western Power Company of California, before using any portion of the proceeds from the sale of said debentures for the purpose of purchasing capital stock of City Electric Company, shall first have secured from the Railroad Commission a supplemental order reciting that Great Western Power Company has filed with the Railroad Commission a stipulation satisfactory in form, agreeing that it will expend said \$3,000,000.00 to be received from the sale of said capital stock of City Electric Company, only after having secured from the Railroad Commission an order or orders authorizing the expenditure of said money, in the same manner as though said \$3,000,000.00 had come to the treasury of Great Western Power Company from the issue of securities of Great Western Power Company authorized by the Railroad Commission.

It is hereby further ordered that the first supplemental order found in Decision No. 3009, dated December 29, 1915, in the above entitled proceeding be and the same is hereby vacated and set aside.

It is hereby further ordered that all the provisions of this Commission's order found in Decision No. 2985, dated December 20, 1915, in the above entitled proceeding, except in so far as modified by the second supplemental order dated January 3, 1916, and this third supplemental order, shall remain in full force and effect.

The foregoing second supplemental opinion and third supplemental order are hereby approved and ordered filed as the second supplemental opinion and the third supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of January, 1916.

DECISION No. 3044.

IN THE MATTER OF THE APPLICATION OF SANTA BARBARA AND SUBURBAN RAILWAY, THE RIVIERA AND RICHARD HAMILTON GAUD FOR AN ORDER AUTHORIZING THE TRANSFER OF A CERTAIN FRANCHISE FOR A STREET RAILWAY AND FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY.

Application No. 2025.

Decided January 15, 1916.

The Riviera, a real estate corporation, having constructed an extension of the street railway line of Santa Barbara and Suburban Railway, now applies jointly with the railway company for permission to transfer to the railway company all right and title to such extension. R. H. Gaud also applies for permission to transfer the certain franchise under which such railway was

constructed, to the railway company, and the railway company applies for a certificate declaring public convenience and necessity require the exercise of rights granted thereunder. Application granted.

W. E. Erwin, for Santa Barbara and Suburban Railway.

Richard Hamilton Gaud, in *propria persona* and for The Riviera.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner*.

This is an application on behalf of the Santa Barbara and Suburban Railway Company, The Riviera, a corporation organized and existing under the laws of the State of California, and Richard Hamilton Gaud, requesting the approval by this Commission of a certain agreement whereby the applicant, The Riviera, desires to transfer a certain line of street railway to the Santa Barbara and Suburban Railway Company; for the approval of the transfer to the Santa Barbara and Suburban Railway of a certain franchise heretofore granted by the city council of the city of Santa Barbara to Richard Hamilton Gaud; and for a certificate of public necessity and convenience authorizing the exercise by the Santa Barbara and Suburban Railway Company of the rights and privileges heretofore granted by Ordinance No. 856 of the city of Santa Barbara to Richard Hamilton Gaud.

A public hearing was held at Santa Barbara on January 11, 1916, the matter being submitted and now ready for decision.

The Santa Barbara and Suburban Railway Company own and operate a street railway system within the corporate limits of the city of Santa Barbara and constructed an extension of one of their lines from a point at the intersection of Los Olivos street and Laguna street along the Alameda Padre Serra to a point opposite the State Normal School of Manual Arts and Home Economics, which is located at the intersection of the Alameda Padre Serra and Freelon avenue. This construction was installed under the provisions of a franchise granted by the city council of Santa Barbara under their Ordinance No. 771, dated July 13, 1913.

The Riviera is a real estate corporation owning a subdivision located east of the terminus of the constructed line of the Santa Barbara and Suburban Railway as above referred to, and The Riviera, desiring a short extension of the line to serve its subdivision, entered into an agreement under date June 30, 1915, with the Santa Barbara and Suburban Railway Company whereby the latter company was to construct under the provisions of a franchise granted to Richard Hamilton Gaud by Ordinance No. 856 of the city council of the city of Santa Barbara, a street railroad from a point in Alameda Padre Serra at the end of the so-called Normal School Extension of the Santa Barbara and Suburban Railway southeasterly along the center line of said Alameda Padre Serra for a distance of 930 feet, and that upon the completion of said

work The Riviera would pay to the Santa Barbara and Suburban Railway Company the actual cost of the construction of said street railroad. The agreement referred to has been filed with this Commission as an exhibit in this application and the Commission is advised that payment has been made by The Riviera to the Santa Barbara and Suburban Railway for the cost of construction of the 930 feet of street railroad. The agreement further contemplated the conveyance to the Santa Barbara and Suburban Railway Company of the line above referred to as having been constructed for the account of and at the expense of The Riviera, and also that certain franchise granted to Richard Hamilton Gaud by the city council of the city of Santa Barbara under its Ordinance No. 856 granted on April 2, 1915, said franchise having been obtained by Richard Hamilton Gaud as agent for The Riviera.

It appears that the extension of the operation of the Santa Barbara and Suburban Railway to the end of the line constructed by The Riviera and now proposed to be transferred to the Santa Barbara and Suburban Railway Company under the terms of the agreement as filed with this Commission and hereinabove referred to is necessary and desirable for the public convenience and will furnish service for the residents of the property now being marketed by The Riviera and that the agreement proposing the transfer is one that should receive the approval of this Commission.

I also find that public convenience and necessity require the operation of the line covered by that certain franchise granted by the city council of the city of Santa Barbara to Richard Hamilton Gaud under Ordinance No. 856, dated April 2, 1915, there appearing no conditions therein that I find objectionable, and that transfer of such franchise should be made to the Santa Barbara and Suburban Railway Company, a certified copy of such transfer to be filed with this Commission.

I am of the opinion that the application should be granted, subject to the conditions contained in the following form of order:

ORDER.

Santa Barbara and Suburban Railway Company, The Riviera and Richard Hamilton Gaud having made application to this Commission for an order authorizing the transfer of a certain line of street railroad, for the transfer of a certain franchise for said street railroad and for a certificate of public necessity and convenience, a public hearing having been held and the Commission being fully advised in the premises,

It is hereby ordered that the applicant, The Riviera, be and the same hereby is authorized to transfer to the Santa Barbara and Suburban Railway Company that certain line of street railroad in the city of Santa Barbara extending from the terminus of the so-called Normal

School Extension of the Santa Barbara and Suburban Railway southeasterly along the center line of Alameda Padre Serra, a distance of 930 feet.

It is further ordered that the applicant, Richard Hamilton Gaud, be and he hereby is authorized to transfer to the Santa Barbara and Suburban Railway Company that certain franchise granted on April 2, 1915, by Ordinance No. 856 of the city council of the city of Santa Barbara to Richard Hamilton Gaud of Santa Barbara, his successors and assigns.

It is further ordered that the Railroad Commission of California hereby declares that public convenience and necessity require the exercise by Santa Barbara and Suburban Railway Company of the rights and privileges conferred by Ordinance No. 856 of the city of Santa Barbara adopted April 2, 1915, provided that Santa Barbara and Suburban Railway Company shall have first filed with the Railroad Commission a stipulation duly authorized by its board of directors, declaring that Santa Barbara and Suburban Railway Company, its successors and assigns, will never claim before the Railroad Commission or any court or any other public body, any value for said rights and privileges, it being understood that the transfer to Santa Barbara and Suburban Railway Company of the franchise granted to Richard Hamilton Gaud is without any financial consideration; and further shall have received from the Railroad Commission a supplemental order declaring that such stipulation, in form satisfactory to the Railroad Commission, has been filed with the Railroad Commission.

It is further ordered that this order shall not be effective until there shall have been filed with this Commission a certified copy of the conveyance by The Riviera to the Santa Barbara and Suburban Railway Company of all right, title and interest in the single track street railroad located in Alameda Padre Serra in the city of Santa Barbara and extending from the end of the so-called Normal School Extension southeasterly along said Alameda Padre Serra for a distance of approximately 930 feet; and until there shall have been filed with this Commission a certified copy of the conveyance by Richard Hamilton Gaud to Santa Barbara and Suburban Railway Company of all right, title and interest in that certain franchise granted by the city council of the city of Santa Barbara to Richard Hamilton Gaud, his successors and assigns, under its Ordinance No. 856, dated April 2, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of January, 1916.

DECISION No. 3045.

IN THE MATTER OF THE APPLICATION OF C. L. HOVEY, RECEIVER
FOR THE BOCA AND LOYALTON RAILROAD COMPANY FOR
AUTHORITY TO DISCONTINUE THE OPERATION OF SAID RAIL-
ROAD FROM JANUARY 1, 1916, TO MAY 1, 1916.

Application No. 2028.

Decided January 15, 1916.

Applicant, operating a line of railroad between Loyalton and Boca, contends that winter traffic does not justify the continued operation of its line and accordingly applies for permission to discontinue service until May 1, 1916. An investigation into conditions existing in the territory served by applicant showing that some service is necessary, application granted, provided applicant shall run one mixed train making one round trip on Tuesday of each week up till March 1st and one round trip on Tuesdays and Fridays of each week up till May 1, 1916.

A. E. Bolton, for Applicant.

A. E. Cheney, for Grizzly Creek Ice Company, Protestant.

A. Davies, for Davies Box and Lumber Company, Protestant.

W. H. Duncan, for Sierra Valley Creamery, Protestant.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

This is an application on behalf of C. L. Hovey, as receiver of the Boca and Loyalton Railroad Company, for the authorization by this Commission of a suspension of operation of the Boca and Loyalton Railroad for the period extending from January 1, 1916, to May 1, 1916, it being alleged that the amount of freight and passenger traffic offering for movement during such period is not productive of sufficient revenue to justify operation and that a material financial loss would be sustained were operation of the line to be continued. This application is brought under the provisions of the Commission's General Order No. 36, which requires that no suspension of operation shall be permitted until the authorization of this Commission shall have been secured.

A public hearing was held at San Francisco on January 13, 1916, the matter was submitted and is now ready for decision.

The Boca and Loyalton Railroad extends from Portola in Plumas County to Boca in Nevada County, a distance of 45.2 miles. The portion of the line between Boca in Nevada County and Loyalton in Sierra County, a distance of 26.1 miles, is through a mountainous country, sparsely settled, difficult of operation during the winter months and producing practically no freight or passenger revenue during the winter season. The source of revenue on this portion of the line has been principally from the operation of lumber mills and box factories. It

appears that there are no mills operating at the present time and that none contemplate resuming their operations during the period covered by this application. There is no freight movement anticipated on this portion of the line excepting such as will be furnished by the Davies Box and Lumber Company in connection with the dismantling of their plant at Davies spur. Such shipments will be ready for movement in the month of April, 1916, and the receiver of the Boca and Loyalton Railroad advised the Commission that whenever the freight was offered for movement service would be given. It is understood that the freight for any other shipper or consignee that may be offered for movement at the same time as that of the Davies Box and Lumber Company will be cared for by the applicant. There was no other protest against the suspension of operation for the desired period for the portion of the line between Boca and Loyalton.

The portion of the line extending from Loyalton in Sierra County to Portola in Plumas County is 19.1 miles in length. This portion of the line serves the Sierra Valley and is not subject to the difficulty of operation during the winter months that is present on the portion of the railroad between Boca and Loyalton. The stations of Portola, Beckwith, Hawley and Loyalton are located on this portion of the line, the station of Loyalton also serving the communities at Sierraville and Sattley. Protest was made at the hearing of this application against the entire abandonment of service of the railroad between Portola and Loyalton. The Sierra Valley Creamery, Inc., is located at Loyalton and this creamery, which is a co-operative company, handles the dairy products for practically the entire Sierra Valley. The suspension of service as sought by the applicant would result in a suspension of the operations of the creamery and result in a material loss to the dairy interests of this section in that it would be impossible to market and dispose of their products. The Grizzly Creek Ice Company have a plant for the harvesting and storage of natural ice which is situated on a spur track about 1½ miles north of the main line of the Boca and Loyalton Railroad, such spur connecting with the main line at a point between the stations of Portola and Beckwith. This ice company has a considerable plant investment and a storage capacity of 20,000 tons. In order to successfully handle its business it is necessary to make seasonal contracts with its customers and patrons and these contracts often require the furnishing of ice during every month in the year. If the entire suspension of operation were to be granted for the period desired in the application the business of the Grizzly Creek Ice Company would be seriously interfered with and it was shown that there were shipments that would require to be moved during the months in which suspension of operation was requested.

The town of Loyalton and its environs has a population of about 1,100 and such population would have no method of transportation other than that furnished by stage lines, which were often inoperative by reason of weather conditions, if suspension of operation on the line of the Boca and Loyalton Railroad were to be granted.

The applicant presented testimony as to the losses from operation that had been incurred during the previous winter season and directed the attention of the Commission to the small volume of traffic expected during the period covered by the application due to the cessation of the operation of the lumber and box mills from which the majority of their freight traffic had been derived. A very considerable portion of the heavy expense of winter operation has been borne in past winter seasons in connection with the line from Boca to Loyalton where but a slight amount of traffic has been enjoyed and where no business other than that of the Davies Box and Lumber Company for movement in April, 1916, is in evidence at this time. The portion of the line between Portola and Loyalton will not be as difficult of operation during the winter months and offers some freight and passenger traffic.

At the hearing of this application it was agreed by all parties that some service should be operated over the portion of the line between Portola and Loyalton during the period covered by the application and it was suggested that a weekly service on Tuesday be provided during the months of January and February and a service of two trains per week on Tuesdays and Fridays be provided during the months of March and April. This suggested service was satisfactory to all the interested parties appearing at the hearing.

I submit the following form of order :

ORDER.

C. L. Hovey, as receiver of the Boca and Loyalton Railroad Company, having made application to this Commission for an order permitting the suspension of operation on said railroad for the period from January 1, 1916 to May 1, 1916, inclusive, a public hearing having been held and the Commission being fully advised in the premises,

It is hereby ordered that C. L. Hovey, as receiver of the Boca and Loyalton Railroad Company, be and he hereby is authorized to suspend operation of all trains on that portion of the Boca and Loyalton Railroad between the stations of Boca and Loyalton until May 1, 1916.

It is hereby further ordered that C. L. Hovey, as receiver of the Boca and Loyalton Railroad Company, shall immediately establish and operate a schedule of trains on the Boca and Loyalton Railroad between the stations of Portola and Loyalton as follows :

During the remaining portion of the month of January and the entire month of February, 1916, one round trip by mixed train on Tuesday of each week.

During the months of March and April, 1916, a round trip by mixed train on Tuesday and Friday of each week.

Timetables covering the above schedule shall be immediately filed with this Commission and advice be given to the general public by the immediate posting of notices and schedules in all agency stations of the Boca and Loyaltan Railroad.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of January, 1916.

DECISION No. 3046.

IN THE MATTER OF THE APPLICATION OF CENTRAL CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF COMMON CAPITAL STOCK OF THE PAR VALUE OF SIX THOUSAND DOLLARS.

Application No. 1944.

Decided January 15, 1916.

Applicant, operating gas generating and distributing systems in a number of towns in Tulare County, applies for permission to issue \$5,000.00 par value of stock to be issued and sold for the purposes of retiring a like face value of bonds. In connection with prior applications of this company certain irregularities appeared and applicant was directed to correct its books so as to show its true financial condition. Subsequently it corrected its annual report on file with the Commission but failed to make like changes in its own books, and it appearing that applicant is not acting in a manner warranting the consideration of applications for the further issue of securities, application denied.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is an application for authority to issue 60 shares of the common capital stock of Central California Gas Company, having a par value of \$100.00 per share, at \$94.00 per share, and to use the proceeds of such issue for the purpose of purchasing \$6,000.00, face value, of bonds of Central California Gas Company for deposit and cancellation by the trustee of Central California Gas Company's bond mortgage.

Public hearings on this application were held in San Francisco on December 14th and 23d, 1915. Evidence was presented by Central California Gas Company and by the Railroad Commission. The matter is now ready for decision.

In Decision No. 2461, rendered on June 7, 1915, in Applications Nos. 1427, 1520 and 1543 of Central California Gas Company, this Commission drew attention to a large number of irregularities in the conduct of the business of Central California Gas Company and in the statements of the company's financial condition as shown in the company's books of account.

In denying said applications, this Commission said in part:

"When the deficit has been made good, and proper adjustments have been made on the books of this utility, and satisfactory evidence has been submitted of such restoration and such adjustments, or when this utility shall have submitted and received the approval of this Commission to plans for the restoration of its financial affairs to a proper basis, this utility may again apply to this Commission for such issue of stocks or bonds or other evidences of indebtedness as may be necessary to enable it to raise the funds to go forward with its public utility business."

Without at this time commenting on other irregularities pointed out in said Decision No. 2461, it appears that the surplus account of Central California Gas Company as of December 31, 1914, was improperly stated to the extent of at least \$15,241.67. In other words, instead of having a surplus, as reported, of \$611.19, the company in reality had a deficit of at least \$14,630.48. Referring to this matter, the Commission, in Decision No. 2461, said in part:

"For this Commission to authorize the securities here applied for as this matter has been presented, and in the light of the disclosures here revealed, would be for this Commission to sanction and perpetuate these fraudulent financial practices."

When the present application was filed, Central California Gas Company was notified by this Commission that the Commission would expect the company to make a showing at the hearing herein that it had taken the necessary steps to comply fully with Decision No. 2461. At the first hearing herein, held on December 14, 1915, it developed that although more than six months had elapsed since this Commission's Decision No. 2461, rendered on June 7, 1915, Central California Gas Company had not as yet made the changes in its books of account and in its annual report as directed by this Commission in Decision No. 2461.

Central California Gas Company was thereupon informed that no further proceedings would be taken by this Commission under this application until the company had complied with the directions contained in Decision No. 2461. Thereafter, on December 15, 1915, Central California Gas Company filed with this Commission new pages to be pasted in its annual report to this Commission for the year ending December 31, 1914, showing a deficit of \$14,630.48, as of December 31, 1914, as directed in Decision No. 2461.

Subsequent examination by this Commission's auditing department of the books of Central California Gas Company revealed the fact that in the interim between the date of Decision No. 2461, being June 7, 1915, and the submission of said additional pages for the annual report for the year ending December 31, 1914, on file with this Commission, Central California Gas Company had gone back over its books and taken certain items out of operating expenses for the years 1912, 1913 and 1914, and had transferred these items to capital account, so that the books of Central California Gas Company, subsequent to the time when the afore-said changes were made in its annual report for the year ending December 31, 1914, showed a deficit of only \$4,572.42 instead of a deficit of \$14,630.48, reported to this Commission. This investigation also showed that for the period between January 1, 1915, and August 31, 1915, Central California Gas Company had put into capital account some \$6,407.23 of so-called development expense and also \$3,071.12 representing the fees of engineers, accountants and attorneys. Whatever may be said as to the propriety of placing the so-called development expenses in capital account, it is elemental that the amounts paid to the engineers, auditors and lawyers should not have been added to capital account.

The net result of these transactions for the period prior to December 31, 1914, was that although Central California Gas Company reported to this Commission in its annual report for the year ending December 31, 1914, a deficit of \$14,630.48, the company's books, at the very same time, as the result of the transactions hereinbefore set forth, showed a deficit of only \$4,572.42. By continuing the same process in 1915, and by further charging absolutely improper additional items to capital account, and thereby apparently diminishing the operating expenses, the company's books showed an absolutely fictitious surplus as of August 31, 1915.

The fact that Central California Gas Company went back over its books of account subsequent to Decision No. 2461, dated June 7, 1915, and took out of operating expenses the items hereinbefore referred to, adding them to surplus for the apparent purpose of nullifying the directions with reference to the books of account contained in said Decision No. 2461, and that Central California Gas Company, while rendering one report to this Commission in its annual report for the year ending December 31, 1914, at the same time so kept its books of account as to show an entirely different condition, are further conclusive evidences that this utility is acting in bad faith with this Commission and that the Commission can not, with any safety, authorize the issue of any additional securities by this utility until it has received satisfactory evidence that Central California Gas Company has completely changed

its present policies and that it will hereafter deal with this Commission in entire good faith.

In addition, further, to the matters set forth in said Decision No. 2461, it now appears that Central California Gas Company has paid dividends on the 365½ shares of the company's common capital stock which stand in the name of California Utilities Corporation. This corporation is controlled by Mr. C. S. S. Forney, who is also the president of Central California Gas Company. These 365½ shares of Central California Gas Company's common stock were expressly issued for the purpose of control only, and it was specifically provided that these shares should not be treated as having value (Vol. 1, Opinions and Orders of the Railroad Commission of California, p. 663).

Furthermore, subsequent to Decision No. 2461, Central California Gas Company has expended several thousand dollars in securing reports of engineers and auditors and the services of attorneys. These expenditures could not possibly change the fact that General Operating and Construction Company, of which Mr. C. S. S. Forney was president, secured a large fraudulent profit in connection with a construction contract between General Operating and Construction Company and Central California Gas Company, nor could such expenditures in any way change the fact that the irregularities in the books of Central California Gas Company reported by this Commission's auditing department and later corrected by Central California Gas Company in its annual report to this Commission for the year ending December 31, 1914, actually existed on the books of Central California Gas Company. It is unnecessary to point out that expenditures of this kind incurred by a relatively small utility, will sooner or later absolutely ruin a utility, which, under proper management, could and would be of undoubted service to the people of Tulare County as well as fairly profitable to its stockholders.

The amount of capital stock which applicant herein desires to issue, being only \$6,000.00, is comparatively small. This amount could easily be secured by Central California Gas Company by assessment on its stock. But Central California Gas Company might as well understand definitely now that until the company has complied with this Commission's orders and has undone the fictitious and fraudulent transactions referred to herein and in Decision No. 2461, and has shown its intention to deal in absolute good faith with this Commission, it can not expect this Commission to co-operate with it. This Commission must use extraordinary care in passing upon the application of a utility whose every act it must continually scrutinize to detect possible further fraudulent practices.

I recommend that the application be denied and submit the following form of order:

ORDER.

Good cause appearing,

It is hereby ordered that the petition in the above entitled proceeding be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of January, 1916.

DECISION No. 3047.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO AND ARIZONA
RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUE
AND SALE OF BONDS.

Application No. 808.

Decided January 19, 1916.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER NUMBER TEN.

Supplemental application having been made by the San Diego and Arizona Railway Company, a corporation, on January 8, 1916, for the approval by the Commission of certain contracts for purchase of material which is necessary for the construction of a portion of said applicant's line and amounting to a total cost of approximately \$88,000.00; and it appearing to the Commission that this application should be granted,

It is hereby ordered that this application be and the same hereby is approved.

Dated at San Francisco, California, this 19th day of January, 1916.

DECISION No. 3048.

IN THE MATTER OF THE APPLICATION OF WHITTIER WATER
COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 2030.*Decided January 19, 1916.*

Applicant applies for permission to issue \$120,000.00 face value 6 per cent first mortgage bonds to be sold at not less than 92½, proceeds to be used for the purposes of retiring \$52,000.00 face value collateral trust notes, the balance for reimbursing applicant's treasury for money heretofore expended in the retirement of \$62,000.00 face value of notes, and after a review of applicant's present financial condition it appearing that the application is reasonable, application granted.

A. M. Chaffey, for Applicant.

REPORT OF THE COMMISSION.

In this application Whittier Water Company asks authority to issue \$120,000.00 face value of 6 per cent serial bonds at not less than 92½ per cent of the face value thereof and accrued interest, and to use the proceeds obtained from the sale of the bonds for purposes hereinafter indicated.

Whittier Water Company was organized April 18, 1907. Under its original articles of incorporation, it was authorized to distribute, supply and deliver water at cost among its stockholders only for domestic purposes and for the irrigation of lands owned by them. In June, 1913, applicant amended its articles of incorporation so as to permit it to sell water to its stockholders, other corporations or natural persons for domestic purposes, for irrigation, for the generation of power and all other beneficial uses to which water may be put, and collect lawful compensation for such water and the use thereof.

Applicant reports that it owns approximately 538½ acres of water-bearing land. Of this land, 400 acres, more or less, are located in the San Gabriel River wash, about one mile northwest of Bassett Station, Los Angeles County; 80 acres are located about five miles northwest of Whittier and 40 acres are located about two miles southwest of Whittier. In addition to the water-bearing land the company owns 40 acres of citrus land and 4 lots located in the city of Whittier.

The capital stock of the company, amounting to \$200,000.00, was issued in payment of water-bearing land.

Whittier Water Company obtains its water supply from wells as follows:

	Number	Dimension (inches)	Depth (feet)	Miners-Inch yield (each)
Bassett plant -----	1	12	90	70
	1	12	90	80
	1	16	600	90
	5	12	120	60
Bartola plant -----	2	10	400	} 250
	1	14	620	
Judson plant -----	1	12	632	200

According to its annual report for the year ending December 31, 1914, Whittier Water Company owns approximately 4 $\frac{1}{10}$ miles of transmission and distribution mains and a half interest in 5.7 miles. The major portion of its transmission and distribution pipes has a diameter of 25 inches or more.

Applicant does not sell any water in the city of Whittier. It serves communities located northwest of Whittier, south of Whittier, east of Whittier and the La Habra Valley, located in northern Orange County, and the northeastern portion of Los Angeles County. The company has 244 consumers, of which 127 purchase water for domestic purposes, 112 for irrigation purposes and 5 for industrial purposes. During the year 1915, applicant reports the sale of 147,736 inch-hours of water to mutual water companies; 1,110,293 inch-hours of water to irrigators; 15,793,280 cubic feet to oil companies and 2,626,098 cubic feet to domestic consumers. Approximately 40 per cent of the operating revenue of Whittier Water Company is obtained from the sale of water to oil companies. The company states that should the oil wells become extinct, it would have no difficulty in disposing of its surplus water for irrigation purposes.

In addition to the foregoing property, Whittier Water Company owns \$6,800.00 par value of stock of the Associated Investment Corporation, which it values at \$6,800.00; 8 shares of stock of California Domestic Water Company, which it values at \$763.25; 140 shares of stock of the La Habra Valley Bank, which it values at \$16,300.00; and 167 $\frac{3}{4}$ shares of stock of the La Habra Water Company, which it values at \$22,344.25.

Among the assets of the company are listed notes receivable, aggregating \$77,776.27.

Whittier Water Company has an authorized stock issue of \$200,000.00, divided into 4,000 shares of the par value of \$50.00 per share. All of the stock is outstanding. It is owned by the following persons:

Name of Stockholders	Number of shares
Geo. Chaffey	1,596
A. M. Chaffey	1,066
J. B. Chaffey	4
W. J. Hole	1,330
A. H. Rose	4
Total	4,000

The company reports that it has never paid any dividends. All of the surplus operating revenues have been reinvested in the property of the company.

Whittier Water Company has an authorized serial bond issue of \$150,000.00. The bonds are secured by a deed of trust dated July 1, 1907, and executed to Title Insurance and Trust Company. The lien of the deed of trust covers all the real and personal property of the company owned at the time the instrument was executed or thereafter acquired.

Bonds of Whittier Water Company bear 6 per cent interest per annum, payable semiannually. The bonds are of the denomination of \$500.00 each. Fifteen of the bonds mature July 1, 1918, and fifteen of said bonds mature on the first day of July of each year thereafter to and including July 1, 1937. Bonds in the sum of \$30,000.00 were issued January 30, 1908, at par. The bonds, which applicant desires to issue, are numbered as follows:

Numbers	Date of maturity	Face amount
1 to 15	July 1, 1918	\$7,500 00
16 to 30	July 1, 1919	7,500 00
31 to 45	July 1, 1920	7,500 00
46 to 60	July 1, 1921	7,500 00
61 to 75	July 1, 1922	7,500 00
76 to 90	July 1, 1923	7,500 00
91 to 105	July 1, 1924	7,500 00
106 to 120	July 1, 1925	7,500 00
121 to 135	July 1, 1926	7,500 00
136 to 150	July 1, 1927	7,500 00
151 to 165	July 1, 1928	7,500 00
166 to 180	July 1, 1929	1,500 00
229 to 240	July 1, 1933	6,000 00
241 to 255	July 1, 1934	7,500 00
256 to 270	July 1, 1935	7,500 00
271 to 285	July 1, 1936	7,500 00
286 to 300	July 1, 1937	7,500 00
Total		\$120,000 00

During 1911, Whittier Water Company issued \$115,000.00 face value of five-year 6 per cent collateral trust notes to refund outstanding short term indebtedness and secure funds to pay for the cost of extensions.

The notes are dated May 1, 1911, and mature May 1, 1916. Collateral trust notes in the sum of \$22,000.00 have been redeemed and canceled. In addition, applicant has reacquired collateral trust notes, which it now holds in its treasury, in the sum of \$41,000.00. Notes in the sum of \$52,000.00 remain outstanding. The payment of these notes is secured in part by the hypothecation of the bonds which applicant now desires to issue. The proceeds from the sale of the bonds are to be used to pay off the outstanding collateral trust notes amounting to \$52,000.00 and to reimburse applicant's treasury in the sum of \$63,000.00 expended heretofore in the acquisition and redemption of a like amount of collateral trust notes. The income and profit and loss statements submitted by applicant show that its surplus earnings have been in excess of the amount which it alleges to have used to redeem collateral trust notes. Applicant reports assets and liabilities as of November 30, 1915, as follows:

<i>Assets.</i>	
Franchises -----	\$1,325 00
Fixed capital -----	425,719 13
Lands -----	\$265,269 60
Buildings and structures -----	10,987 39
Pumping equipment -----	26,077 33
Aqueducts, intakes and wells -----	20,294 12
Transmission mains -----	71,124 01
Distribution -----	11,864 20
General structures -----	20,102 48
Investments -----	73,707 50
Cash -----	9,751 53
Accounts receivable -----	15,196 02
Notes receivable -----	77,776 27
Materials and suspense -----	2,306 86
Miscellaneous -----	606 38
Total assets -----	\$606,388 69
<i>Liabilities.</i>	
Capital stock -----	\$200,000 00
Bonds outstanding -----	30,000 00
Authorized -----	\$150,000 00
Pledged -----	120,000 00
Collateral trust notes -----	52,000 00
Authorized -----	\$115,000 00
Retired in treasury -----	63,000 00
Accounts payable -----	19,088 14
Notes payable -----	5,400 00
Interest accrued but not due -----	1,096 10
Reserve for accrued depreciation -----	33,903 24
Reserve for amortization of franchise -----	62 10
Surplus -----	264,839 11
Total liabilities -----	\$606,388 69

Whittier Water Company for years 1912, 1913, 1914, and 1915 has reported operating revenues and expenses as follows:

Item	1912	1913	1914	*1915
Operating revenue -----	\$46,594 87	\$80,631 26	\$98,714 77	\$100,385 02
Operating expenses -----	68,855 84	88,807 19	74,615 42	70,366 54
Net operating revenue -----	¹ \$22,260 97	¹ \$8,175 93	\$24,099 35	\$30,018 48
Nonoperating revenue—				
Rents -----	\$1,300 10	\$144 00	\$145 00	\$57 50
Interest and dividend revenue -----	8,527 24	9,602 41	8,762 14	8,379 79
Miscellaneous nonoperating revenue -----			126 50	665 16
Totals -----	\$9,827 34	\$9,746 41	\$9,033 64	\$9,102 45
Gross corporate income -----	¹ \$12,433 63	\$1,570 48	\$33,132 99	\$39,120 93
Deductions—				
Interest on funded debt -----	\$8,617 50	\$9,327 50	\$7,956 35	\$6,630 42
Other interest -----	1,060 96	2,257 64	1,493 60	691 66
Miscellaneous nonoperating expenses -----		3,707 50	5,273 98	4,577 46
Miscellaneous rent deductions -----		500 00	696 00	634 00
Other contractual deductions -----		8,517 30		22 50
Total deductions -----	\$9,678 46	\$24,309 94	\$15,419 93	\$12,556 04
Loss for year -----	\$22,112 09	\$22,739 46		
Surplus for year -----			\$17,713 06	\$26,564 89

¹Loss.

²Figures approximate.

The operating expenses, as shown above, include depreciation charges as follows:

1912 -----	None
1913 -----	\$23,149 28
1914 -----	16,203 57
1915 -----	10,000 00

Applicant reports that these amounts have been charged to reserve for accrued depreciation and that the only charges against this reserve is for adjustments or capital retired.

On November 30, 1913, the reserve for accrued depreciation was reported at \$33,903.24.

It is clear from an analysis of the affairs of this company that the value of its property is considerably in excess of the amount of bonds which it desires to issue, thus obviating the necessity of a valuation at the present time.

While applicant in its application asks to be allowed to sell bonds at not less than 92½ per cent of the face value thereof and accrued interest, it now has reason to believe that it will be able to market its bonds at a better figure, possibly as high as 97½ per cent of the face value and accrued interest. The order in this proceeding will, therefore, provide

that the bonds herein authorized shall not be issued for less than 95 per cent of the face value thereof and accrued interest.

We herewith submit the following form of order:

ORDER.

Whittier Water Company having applied to the Railroad Commission for authority to sell \$120,000.00 face value of its 6 per cent first mortgage serial bonds at a price to net applicant not less than 92½, the proceeds of said sale to be used to pay off \$52,000.00 outstanding collateral trust notes and reimburse applicant's treasury in the sum of \$63,000.00, and a public hearing having been held and it appearing that the purposes for which applicant hereby proposes to issue said bonds are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Whittier Water Company be given and it is hereby given authority to issue \$120,000.00 face value of 6 per cent serial bonds, said bonds being numbered as follows:

Numbers	Date of maturity	Face amount
1 to 15.....	July 1, 1918	\$7,500 00
16 to 30.....	July 1, 1919	7,500 00
31 to 45.....	July 1, 1920	7,500 00
46 to 60.....	July 1, 1921	7,500 00
61 to 75.....	July 1, 1922	7,500 00
76 to 90.....	July 1, 1923	7,500 00
91 to 105.....	July 1, 1924	7,500 00
106 to 120.....	July 1, 1925	7,500 00
121 to 135.....	July 1, 1926	7,500 00
136 to 150.....	July 1, 1927	7,500 00
151 to 165.....	July 1, 1928	7,500 00
166 to 180.....	July 1, 1929	1,500 00
229 to 240.....	July 1, 1933	6,000 00
241 to 255.....	July 1, 1934	7,500 00
256 to 270.....	July 1, 1935	7,500 00
271 to 285.....	July 1, 1936	7,500 00
286 to 300.....	July 1, 1937	7,500 00
Total		\$120,000 00

The authority to issue bonds is given upon the following conditions and not otherwise:

1. The bonds herein authorized to be issued shall be sold so as to net Whittier Water Company not less than 95 per cent of the face value thereof and accrued interest.

2. The proceeds from the sale of the bonds may be used for the following purposes:

- (a) To pay outstanding 6 per cent collateral trust notes due
May 1, 1916..... \$52,000 00
- (b) To reimburse applicant's treasury for moneys expended in the
purchase of \$63,000.00 face value of 6 per cent collateral
trust notes, and to be thereafter reinvested in additions and
betterments to applicant's property..... 63,000 00

3. Whittier Water Company shall keep a separate, true and accurate account showing the receipt and application in detail of the sale of the bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month, the company shall make verified reports to the Commission, stating the sale or sales of said bonds, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted shall not become effective until Whittier Water Company has paid the fee specified in section 57 as amended of the Public Utilities Act.

5. The authority herein granted shall apply only to such bonds as may have been issued on or before January 1, 1917.

Dated at San Francisco, California, this 19th day of January, 1916.

DECISION No. 3049.

IN THE MATTER OF THE APPLICATION OF THE SAN ANTONIO IRRIGATING COMPANY FOR PERMISSION TO BORROW THE SUM OF THIRTY THOUSAND DOLLARS AND EXECUTE ITS PROMISSORY NOTE OR NOTES TO EVIDENCE THE SAME AND A TRUST DEED TO SECURE THE SAME AND ALSO AUTHORITY TO IMPROVE A WATER SYSTEM.

Application No. 519.

Decided January 19, 1916.

Applicant having been heretofore authorized to issue notes for improvement purposes, certain of which are now due, applies for permission to issue \$15,000.00 face value 7 per cent notes for a period of not more than five years to refund same. Application granted.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas this Commission in its Decision No. 727, Vol. 2, Opinions and Orders of the Railroad Commission of California, page 1041, duly authorized applicant herein to issue six promissory notes of the face value of \$5,000.00 each, payable one in one year, two in two years and three in two years and nine months from their respective dates, said notes to be secured by a deed of trust upon applicant's property; and

Whereas it now appears that of said promissory notes only \$25,000.00 face value were actually issued and that at the present time only \$15,000.00 are now outstanding; and

Whereas the San Antonio Irrigating Company has now applied to this Commission for authority to renew said \$15,000.00 face value of promissory notes for a period of not more than five years from January 1, 1916, said notes to bear interest at not to exceed 7 per cent per annum, payable quarterly, and to be secured by a mortgage or deed of trust of substantially the same form and tenor as the mortgage and deed of trust authorized by this Commission in its Decision Number 727, referred to above; and it appearing to this Commission that this is not a matter in which a public hearing is necessary and that the purposes for which it is proposed to issue said notes are not reasonably chargeable to operating expenses or to income,

It is hereby ordered that the San Antonio Irrigating Company be and it is hereby authorized to issue its promissory note or notes in the total sum of \$15,000.00, to mature not more than five years from January 1, 1916, and to bear interest at not to exceed 7 per cent per annum, payable quarterly.

It is hereby further ordered that the San Antonio Irrigating Company be and it is hereby authorized to execute as security for said note or notes a mortgage or deed of trust covering all of the property comprising its water system, said mortgage or deed of trust to be of substantially the same form and tenor as the deed of trust authorized by this Commission in its Decision Number 727, Vol. 2, Opinions and Orders of the Railroad Commission of California, page 1041.

The order herein is granted upon the following conditions and not otherwise:

(1) The notes herein authorized to be issued shall be issued only for the purpose of refunding or retiring the \$15,000.00 of promissory notes now outstanding and payable to Los Angeles Trust and Savings Bank of Los Angeles, California.

(2) Within thirty days after the notes herein authorized to be issued shall have been issued, applicant shall report such fact to this Commission, together with a statement of the face value of the notes issued, the date of maturity, rate of interest and payee of each note respectively.

(3) The authority herein granted to issue notes shall apply only to such note or notes as shall have been issued by applicant on or before June 30, 1916.

Dated at San Francisco, California, this 19th day of January, 1916.

Decisions Nos. 3050 and 3051, grade crossings; not printed. See end of volume.

DECISION No. 3052.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SAN DIEGO BEACH RAILWAY COMPANY FOR AUTHORITY TO ISSUE EIGHT HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS OF BONDS.

Application No. 1240.

Decided January 21, 1916.

Applicant is granted permission to pledge \$30,000.00 face value of its 5½ per cent sinking fund bonds as security for \$21,000.00 face value promissory note. Both of such bonds and note were heretofore authorized by the Commission.

REPORT OF THE COMMISSION.

FOURTH SUPPLEMENTAL ORDER.

Whereas this Commission in its Decision No. 1962, Vol. 5, Opinions and Orders of the Railroad Commission of California, page 761, and in certain orders issued supplemental thereto authorized Los Angeles and San Diego Beach Railway Company to issue \$375,000.00 of its first mortgage 5½ per cent sinking fund gold bonds; and

Whereas said order further provided that applicant might pledge said bonds or any part thereof in such amounts and at such ratios as should thereafter be authorized by this Commission; and

Whereas applicant has now applied to this Commission for authority to pledge thirty of its first mortgage 5½ per cent sinking fund gold bonds of the total face value of \$30,000.00 as collateral security for a note to Merchants National Bank of San Diego in the principal sum of \$21,000.00, said note having been authorized by this Commission in its Decision Number 1918, Vol. 5, Opinions and Orders of the Railroad Commission of California, page 674; and it appearing to this Commission that applicant's request is reasonable and should be granted and that the purposes for which it is proposed to issue said bonds are not reasonably chargeable to operating expenses or to income,

It is hereby ordered that Los Angeles and San Diego Beach Railway Company be and it is hereby authorized to pledge \$30,000.00 face value of its first mortgage 5½ per cent sinking fund gold bonds as collateral security for a note to Merchants National Bank of San Diego, dated November 5, 1914, in the principal sum of \$21,000.00.

The authority herein granted is granted upon the following conditions and not otherwise:

1. When the above mentioned note to Merchants National Bank has been paid or otherwise discharged, the bonds herein authorized to be

pledged shall be returned to applicant's treasury and not thereafter issued without the approval of this Commission.

2. In case the note now held by Merchants National Bank of San Diego shall be transferred by said bank, the bonds herein authorized to be pledged shall be returned to applicant's treasury and not thereafter issued without authority from this Commission.

3. The bonds issued hereunder shall not be transferred by Merchants National Bank of San Diego except in case of sale under the terms of the pledge or in accordance with paragraphs 1 and 2 above.

4. The bonds herein authorized to be pledged shall not be sold under said pledge at less than 80 per cent of their face value and accrued interest.

5. Any agreement between the applicant herein and Merchants National Bank of San Diego relative to pledge of bonds herein authorized to be issued, shall contain a provision by which said bank shall give the applicant herein and the trustee under its bond issue ten days notice in case of intention to sell under the terms of said pledge. Within ten days after the execution of any such agreement a copy shall be filed with this Commission.

6. The authority herein granted shall apply only to such bonds as shall have been issued on or before June 30, 1916.

Dated at San Francisco, California, this 21st day of January, 1916.

DECISION No. 3053.

KNEIRR, ALLAN AND PYLE, ROTH-BLUM PACKING COMPANY, SALLES
AND CHICORP, AND J. G. JOHNSON, H. MOFFATT COMPANY

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 893.

Decided January 21, 1916.

Complainants, engaged in the wholesale meat business, receive considerable shipments of cattle from various points in the State; these shipments, they allege, are hauled up to San Francisco and then switched back to the Union Stock Yards, such procedure occasioning considerable delay, they accordingly petition the Commission to compel defendant to make a spur track connection so as to make deliveries to the stockyards.

Held, That the spur, if constructed, would necessitate an open-face switch against which many fast trains would be running each day, which, taken into consideration, together with the dangerous grade conditions of the proposed spur, does not warrant the construction petitioned for. Complaint dismissed.

J. O. Brockan and J. D. Baker, for Complainants.
Geo. D. Squires, for Defendant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

The above complainants are wholesale dealers in live stock and are engaged in the purchase, slaughter and sale of live stock shipped by or for their account from various points within the State of California to the Union Stock Yards at San Francisco. The complainants allege that shipments of live stock intended for delivery at the Union Stock Yards are hauled into San Francisco and then switched back to the Union Stock Yards and that this procedure necessitates an unreasonable delay and a loss to the complainants by reason of unnecessary switching.

Complainants request that the Southern Pacific Company be required to make a spur track connection with their west bound main line track at a point opposite the Fourteenth avenue station and that future deliveries of live stock destined to the complainants at the Union Stock Yards at San Francisco be delivered over such track.

The defendant filed its answer denying the material allegations of the complaint.

A public hearing was held at San Francisco on January 10, 1916, the matter was submitted and is now ready for decision.

The Union Stock Yards in San Francisco are located on the northerly side of "Q" or Quint street and comprise the southerly portion of the blocks bounded by Fairfax or Sixth avenue south; Phelps or "P" street south; Innes or Ninth avenue south; and Quint or "Q" street south. Cars or trains of live stock arriving at San Francisco over the coast division of the Southern Pacific Company pass within a block of the Union Stock Yards when en route and are taken to the Mission Bay Yard at Sixteenth street, then are switched back to the Union Stock Yards via the joint trackage of The Atchison, Topeka and Santa Fe Railway and Southern Pacific Company on Illinois street. This switching has consumed considerable time, witnesses for the complainant stating that from two to ten hours have been necessary for this movement in the past, although that recently very prompt service has been in evidence. Dealers in live stock object to any unnecessary switching as such causes bruising of the shipments which results in shrinkage and consequent financial loss. If the shipments of live stock arriving over the coast division of the Southern Pacific Company could be diverted from the main line at a switch to be installed at a point opposite the Fourteenth avenue station the delivery could be accomplished in but a few minutes time and the necessity of switching in the Mission Bay Yards of the Southern Pacific Company and subsequent handling in

connection with the transfer over the joint track of The Atchison, Topeka and Santa Fe Railway and Southern Pacific Company on Illinois street would be obviated.

The switch connecting with the track over which the complainants desire delivery was one installed some years ago by the construction department of the Southern Pacific Company at the time of the construction of the Bay Shore cutoff and especially in connection with the construction of Tunnel No. 3. When the construction work was completed the switch connection was removed and has not since been restored excepting in one instance when by reason of a wreck it was impossible to deliver a shipment of live stock through the San Francisco Yard and the switch was temporarily restored until the main line could be cleared, when it was again removed. This switch is located at a point in the west bound main line 320 feet from the west portal of Tunnel No. 3, which is 2,364 feet in length. The switch, if installed, would be a facing-point switch which is extremely undesirable and dangerous where high speed operation is conducted and at this point passenger trains frequently run at a speed of 50 miles per hour which is the maximum speed permitted by the Southern Pacific Company. A further objection to the installation of the switch sought by the complainants is the grade of the spur track with which it would connect. From the point of the switch the track would be level for a distance of 210 feet; the next 275 feet is on a 5.8 per cent descending grade; the next 275 feet is on a .9 per cent descending grade; and the next 200 feet is on a 1.5 per cent descending grade. Operation of a high speed main line with trains running against a facing-point switch leading into a track having grade conditions, such as exist in this instance, would be extremely hazardous and present serious risk of accident to passengers, employees, equipment and the property entrusted to the care of the Southern Pacific Company. I am of the opinion that the requirements of the complainants in the handling of their live stock shipments do not justify the hazard of operation that would be evident were this switch connection to be installed.

The Southern Pacific Company have recently installed an expedited switching service to care for the needs of the complainants and others using the corrals at the Union Stock Yards and that this service has afforded some relief is evidenced by the testimony of some of the complainants' witnesses in effect that a marked improvement in the length of time required to perform the switching from the Mission Bay Yards to the Union Stock Yards had recently been observed. The attorney for the defendant stated that it was the intention of the Southern Pacific Company that preferred and prompt service should be given live stock shipments arriving over the coast division and destined to

Union Stock Yards but that the large amount of passenger train movement incident to the Panama-Pacific International Exposition as well as the entire reconstruction of the coast division terminals at San Francisco had materially interfered with the free use of operating facilities during the past year and that at present there was no reason why the prompt service required by the complainants could not be given.

In view of the hazardous and dangerous operating conditions that would be in evidence were the switch to be installed as sought by the complainants, and the further fact that an expedited switching service has been arranged for by the Southern Pacific Company between its Mission Bay Yard and the Union Stock Yards, I am of the opinion that the complaint should be dismissed.

I suggest the following form of order:

ORDER.

The complainants in this proceeding having requested that this Commission make its order compelling the Southern Pacific Company to install a switch in its westbound main line at a point opposite Fourteenth avenue station in the city of San Francisco and hereafter to deliver shipments of live stock over such switch and connecting track to the Union Stock Yards, a public hearing having been held and the Commission being fully advised in the premises,

It is hereby ordered that, for the reasons appearing in the foregoing opinion, this complaint be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of January, 1916.

DECISION No. 3054.

IN THE MATTER OF THE APPLICATION OF GEORGE P. ALEXANDER
FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
IN DISTRICT OF ORANGEVALE, SACRAMENTO COUNTY, CALI-
FORNIA.

Application No. 2038.

Decided January 21, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Applicant having made written request that the above entitled application be dismissed,

It is hereby ordered by the Railroad Commission of the State of California that the above entitled application be and the same hereby is dismissed without prejudice.

Dated at San Francisco, California, this 21st day of January, 1916.

DECISION NO. 3055.

THE JAMES MILLS SACRAMENTO VALLEY ORCHARD AND CITRUS
FRUIT COMPANY

vs.

SOUTHERN PACIFIC COMPANY, AND THE ATCHISON, TOPEKA AND
SANTA FE RAILWAY COMPANY.

Case No. 850.

Decided January 22, 1916.

Complainants made a shipment of citrus fruit trees from southern California to Hamilton, and, through misinformation given by the agent of the Santa Fe Railway, paid a higher charge than would have been paid over Southern Pacific lines; also, on shipments over Southern Pacific Company, a higher rate was paid than would have been the case had the agent notified complainant of a releasing provision of \$5.00 per 100 pounds on shipments of this nature. Complainant accordingly petitions for reparation in the sum of \$918.96.

It appearing that the charges in question were paid over two years before the filing of this complaint, the statute of limitations bars the Commission from further consideration thereof, and though both defendants are willing to waive the provisions of this statute, it is *held* that the Commission can not permit carriers to waive these provisions in one case and hold them up in another.

W. D. Van Nostran and *F. L. Gibson*, for Complainant.

Geo. D. Squires, for Southern Pacific Company.

E. W. Camp, for The Atchison, Topeka and Santa Fe Railway Company.

REPORT OF THE COMMISSION.

The complainant in this case seeks reparation upon the charge that defendants exacted unjust and unreasonable rates upon certain shipments of trees as hereinafter set forth.

A public hearing was held in the city of Los Angeles on December 3, 1915, and testimony having been introduced on all sides, the case was submitted upon briefs to be filed by the respective parties. The last of these briefs has been filed and the case is now ready for decision.

The evidence clearly shows that complainant, during the months of February and March, 1913, had shipped to it at Hamilton, California, a number of carloads of citrus fruit trees from points in southern California upon which complainant paid the freight charges. Seventeen of these carloads of trees were shipped from Alcrew, Riverside County,

via The Atchison, Topeka and Santa Fe Railway Company, one of the defendants in this action, hereinafter referred to as the "Santa Fe." These shipments were, upon the advice of the Santa Fe's agent at Riverside, routed by the shipper via Stockton, at a rate which was in excess of the rate which complainant would have received if the shipments had been routed via Los Angeles. Complainant further shipped a number of carloads of citrus fruit trees from other stations in California by the defendant, Southern Pacific Company, hereinafter designated and referred to as the "Southern Pacific," without the customary release clauses of \$5.00 per hundred pounds upon the bills of lading, which resulted in complainant being charged and paying a higher rate than it would have had to pay if the release clauses had been endorsed upon the bills of lading.

The entire reparation claimed upon the alleged misrouted shipments and upon the shipments which were not released amounted to the sum of \$918.96.

From the evidence it further appears that Mr. James R. Mills, the general manager of the complainant, had a conversation prior to these shipments with the agent of the Santa Fe at Riverside, in which conversation said agent solicited the complainant's shipping business. Mr. Mills promised the agent, purely as a matter of business friendship, to give his company a portion of the freight, provided the agent could get as good a rate for complainant over the Santa Fe as that offered by the Southern Pacific. The agent gave Mr. Mills to understand that he could get him as low a rate as the Southern Pacific could make, and Mr. Mills accordingly had his company make the shipments of seventeen carloads over the Santa Fe.

According to the agent's testimony, when discussing the matter with Mr. Mills, he thought that he could obtain as low a rate as that made by the Southern Pacific, but later he found that he could not. Upon obtaining this latter information from his company's headquarters he apparently telephoned to the nursery company which was selling Mr. Mills the trees and which was loading them upon the cars for him, stating the rate which the Santa Fe company had made for the shipments, but not calling the nursery company's attention to the fact that this charge was higher than the rate via Los Angeles over the Southern Pacific.

There is little question in our minds but that the Santa Fe's agent at Riverside was led by his excess of zeal in behalf of his company to act with none too much frankness toward Mr. Mills, and in a manner which we consider far from commendable, and we feel that complainant had ample cause to feel aggrieved at the treatment he received.

As to the sixteen carloads of trees which were shipped without the release clause, it appears from the evidence that the trees were actually

worth less than \$5.00 per hundred pounds, and that, accordingly, complainant would certainly have been entitled to the lower rate if the shipments had actually been released.

According to the uncontradicted testimony of Mr. Mills, complainant's general manager, and Mr. A. N. Collins, the general manager of the nursery company who supplied the trees, neither of them was informed by either of the defendants that they were entitled to a lower rate if they released the shipments than if they did not, and neither of them knew of this lower rate. Complainant contends that it was the duty of the railroad company accepting said shipments to inform the shipper of this lower rate, and that, accordingly, complainant is entitled to recover this excess.

There were several more or less intricate legal points involved in this case which were fully discussed in the briefs on both sides; but it will be unnecessary for us to consider more than one, as we are of the opinion that complainant has lost whatever remedy it might possibly otherwise have had by its failure to file its formal complaint with this Commission within two years from the time the alleged causes of action accrued.

We would naturally prefer to be able to decide this case purely on its merits, but the law seems to us clear upon this point. Section 71 of the Public Utilities Act reads in part as follows:

“(a) When complaint has been made to the Commission concerning any rate, fare, toll, rental or charge for any product or commodity furnished or service performed by any public utility, and the Commission has found after investigation that the public utility has charged an excessive or discriminatory amount for such product, commodity or service, the Commission may order that the public utility make due reparation to the complainant therefor, with interest from the date of collection; provided no discrimination will result from such reparation.

(b) * * * All complaints concerning excessive or discriminatory charges shall be filed with the Commission within two years from the time the cause of action accrues.” * * *

There may be some question as to whether in cases of this kind the cause of action accrues when the shipments are made or when they are received or when the excessive charges have been paid; but, in any case, there can be no question but what the cause of action has accrued by the time that the excessive charges have been paid. In this case the last of the payments upon which reparation is requested was made the latter part of July, 1913, and the complaint was filed with this Commission on August 20, 1915.

Complainant proved that it did not know that it had been overcharged until the month of March, 1915, and it claimed that as the overcharges “were paid under a mistake of fact and under misrepresenta-

tion of the defendant company's agents and employees," the limiting clause in the Public Utilities Act should be interpreted in the light of section 338, clause 4, of the California Code of Civil Procedure, and that complainant accordingly had three years from the discovery of its mistake and overpayment in which to bring this action. We can not so construe the Public Utilities Act, for it states in so many words that all complaints concerning excessive or discriminatory charges shall be filed with the Commission within two years from the time the cause of action accrues. It makes no exception to this limitation and no provision for allowing further time in cases of fraud.

It is true that this legal bar was not pleaded as a defense by either of the defendants and that the Santa Fe has impliedly expressed its willingness to waive this defense if it can legally do so. We are of the opinion, however, that the provision of the Public Utilities Act above quoted is further distinguishable from the ordinary statute of limitations to the extent that it need not be affirmatively pleaded and can not be waived in the case of this kind by a carrier. The reasoning of the Supreme Court of the United States in the case of *A. J. Phillips Co. vs. Grand Trunk Railway Co.*, 236 U. S. 662, is no less binding upon us than it is convincing. The court was, it is true, construing the federal statute, which might be considered as being somewhat stronger than ours, as that statute provides that "all complaints for the recovery of damages shall be filed with the Commission within two years from the time the cause of action accrues, *and not after.*" The court decides the question partly on the strength of this phrase, but its reasoning is such as to apply just as strongly to the present case, and we feel that we can not explain our position better than by quoting the following language of Justice Lamar (p. 667) :

"Under such a statute the lapse of time not only bars the remedy but destroys the liability (*Finn vs. United States*, 123 U. S. 227, 232) whether complaint is filed with the Commission or suit is brought in a court of competent jurisdiction. This will more distinctly appear by considering the requirements of uniformity which, in this as in so many other instances, must be borne in mind in construing the Commerce Act. The obligation of the carrier to adhere to the legal rate, to refund only what is permitted by law and to treat all shippers alike would have made it illegal for the carriers, either by silence or by express waiver, to preserve to the Phillips Company a right of action which the statute required should be asserted within a fixed period. * * * *To permit a railroad company to plead the statute of limitations as against some and to waive it as against others would be to prefer some and discriminate against others in violation of the terms of the Commerce Act which forbids all devices by which such results may be accomplished.* The prohibitions of the statute against unjust discrimina-

tion relate not only to inequality of charges and inequality of facilities, but also to the giving of preference by means of consent judgments or the waiver of defenses open to the carrier. The railroad company therefore was bound to claim the benefit of the statute here and could do so here by general demurrer. For when it appeared that the complaint had not been filed within the time required by the statute, it was evident, as a matter of law, that the plaintiff had no cause of action."

ORDER.

A public hearing having been held in the above entitled case, and the matter having been duly submitted upon briefs of the respective parties, and it appearing that any claim for reparation which complainant might otherwise have had under the Public Utilities Act has become barred through its failure to file its complaint within two years from the time the cause of action accrued, as required by section 71 (b) of said act,

It is hereby ordered that said complaint be and the same is hereby dismissed.

Dated at San Francisco, California, this 22d day of January, 1916.

DECISION No. 3056.

GEO. W. FINK ET AL.

vs.

SAN JOAQUIN AND KINGS RIVER CANAL AND IRRIGATION COMPANY.

Case. No. 834.

Decided January 22, 1916.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner*.

ORDER ON PETITION FOR REHEARING.

Whereas this Commission rendered its decision in the above entitled matter on the 18th day of December, 1915, which decision is numbered 2983, and on the 5th day of January, 1916, defendant, the San Joaquin and Kings River Canal and Irrigation Company, filed its petition asking that either a rehearing be had in the said matter or that a supplemental order be made modifying the order in the aforementioned decision by eliminating that portion of the order relating to a rotation schedule of irrigation; and

Whereas in the petition for rehearing defendant urged that the opinion of the Commission recited that all parties stipulated to the conditions therein set out; that the hearing was largely in the nature of a discussion in the course of which defendant indicated willingness to inaugurate a rotation schedule of irrigation under certain conditions; that qualifying language was, however, used by counsel for defendant in regard to his indication of such willingness; and

Whereas after a more careful consideration of the evidence in this matter, I am of the opinion that defendant's objection to the recital in the original opinion that there was such a stipulation on its part, is justified; and

Whereas counsel for complainants expressed a willingness to waive any rotation rules being ordered, at least for a period of one year,

It is hereby ordered that the following part of the aforementioned order relating to the establishment of a rotation schedule of irrigation be eliminated from said Decision No. 2983:

"It is further ordered that the following rule be put into effect and that this rule shall affect only that portion of the system of this company north of Orestimba Creek in Stanislaus County:

An employee will be designated by the company to whom water users may make requests, before the twentieth of each month, for water to be used in the month following, stating amount, length of run desired and the area to be irrigated. There will then be a nondiscriminatory schedule arranged, conforming as nearly as possibly to requests, and posted at Crows Landing post office on or before the twenty-eighth of that month. The schedule will show for each water user the time of beginning and ending of the run and the amount of water to be delivered. Water users may, by specific arrangement made in advance, exchange deliveries."

It is further ordered that all other portions of the aforementioned Decision No. 2983 remain and continue in force.

It is further ordered that said petition for rehearing herein in all other respects than hereinbefore provided be and the same is hereby denied.

The foregoing order on petition for rehearing is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of January, 1916.

DECISION No. 3057.

CITY OF MONTEREY

vs.

THE MONTEREY COUNTY WATER WORKS.

Case No. 500.

IN THE MATTER OF THE APPLICATION OF THE MONTEREY COUNTY
WATER WORKS FOR PERMISSION TO INCREASE RATES FOR
WATER SERVICE.

Application No. 950.*Decided January 25, 1916.*

The Commission heretofore established a schedule of rates for Monterey County Water Works under the above entitled action. The water company applies for a rehearing and it appearing that subsequent occurrences warrant an alteration in the schedule heretofore established, the following rates are established to become effective within twenty days: Minimum rate ranging from 90 cents for a $\frac{1}{2}$ - or $\frac{3}{4}$ -inch service to \$3.00 for a 3-inch service with a rate of 30 cents per 100 cubic feet for the first 300, 25 cents per 100 cubic feet for next 700, 21 cents per 100 cubic feet for all over 1,000. Private fire service, 2-inch \$1.00, 3-inch \$1.50, 4-inch \$2.00 per month; public use \$2.50 per month per hydrant.

Fred A. Treat and Arthur R. Kelley, for City of Monterey.

*Richard Bayne, J. P. Langhorn and J. P. O'Brien, for the Monterey
County Water Works.*

H. G. Jorgenson, for City of Pacific Grove.

REPORT OF THE COMMISSION.

OPINION ON REHEARING.

Under the complaint and answer in the above Case No. 500, involving the reasonableness of rates, and under Application No. 950, requesting that the rates be increased, a public hearing was had and the Commission, by Decision No. 1855, decided on October 8, 1914, found a schedule of rates which it determined to be just and reasonable and ordered the rates established, to become effective twenty days from the date of decision.

Thereafter in due time Monterey County Water Works filed its petition for a rehearing of the case and application, and a hearing thereon was subsequently conducted before Commissioner Edgerton. In the latter proceeding Pacific Improvement Company appeared as intervenor and submitted evidence and a brief urging that the water served by it to the Hotel Del Monte and its ranches had at all times remained private in character and had never been dedicated to public use. Meanwhile the rates established by said Decision No. 1855 have not become effective.

Still later Monterey County Water Works and Pacific Improvement Company filed Application No. 1657, asking authority for the conveyance to said Pacific Improvement Company of certain portions of the water system of Monterey County Water Works and the division and delivery of the water diverted from Carmel River and now being distributed by Monterey County Water Works.

Hearing on the latter application was held before Commissioner Gordon at which hearing complainant, city of Monterey, and city of Pacific Grove were both represented by counsel.

After full consideration of the evidence presented and the arguments submitted, Application No. 1657 has been decided today. Reference is hereby made to the decision. Rates were heretofore established herein for service to the hotel and ranch. Inasmuch as this service is now taken care of by the arrangement authorized by the decision in Application No. 1657, it is not necessary to include that service in the rate schedule of the Monterey County Water Works. Transmission mains for the city of Monterey are laid across the Presidio of Monterey, government property, under revocable permit which would probably be revoked if contract rates were interfered with. The rates established did not fully cover hydrant rental and minimum payments. The order heretofore made should, therefore, be modified in these particulars; but otherwise it should stand as made.

ORDER ON REHEARING.

It appearing that the rates established by Decision No. 1855, dated October 8, 1914, in the above entitled proceedings should be modified, the order embraced in said decision is hereby set aside and the following order is substituted therefor, to wit:

The city of Monterey having filed its complaint against the Monterey County Water Works, alleging that the rates of that company are unjust and unreasonable, and the Monterey County Water Works having answered and denied the material allegations of the complaint, and subsequently having filed an application to increase the rates charged by said Monterey County Water Works to its consumers; and, by agreement, the two cases being combined and a hearing having been held, and it being stipulated that the rates applying in the city of Pacific Grove and within the entire territory served by this utility should be in issue in this case, and subsequently a rehearing thereon having been held, and the Commission being now fully apprised in the premises, does hereby find as facts:

(1) That the rates now charged by the Monterey County Water Works are unjust, unreasonable and discriminatory in so far as they differ from the rates herein established.

(2) That the following rates are just and reasonable rates to be charged by the Monterey County Water Works for water sold to its patrons in the cities of Monterey and Pacific Grove and in the other territory served by said Monterey County Water Works:

General Use, to Apply to All Users on Separate Premises, in Whatever Ownership.

Monthly Minimum Payments.

$\frac{1}{4}$ " and $\frac{3}{4}$ " services -----	\$0 90
1 " services -----	1 25
1 $\frac{1}{2}$ " services -----	1 75
2 " services -----	2 25
3 " services and larger -----	3 00

Monthly Meter Rates.

First 300 cubic feet, 30 cents per 100 cubic feet.
For next 700 cubic feet, 25 cents per 100 cubic feet.
For all used above 1,000 cubic feet, 21 cents per 100 cubic feet.

Private Fire Services.

2" and smaller -----	\$1 00 per month
3" -----	1 50 per month
4" -----	2 00 per month

Public Use.

Fire service, \$2.50 per month per hydrant.
For sprinkling streets and roads, 21 cents per 100 cubic feet.
Other uses at meter rates.

Rates for water served to Presidio at Monterey to remain the same as those now in effect.

Basing this order on the foregoing findings of fact and the findings of fact in the opinion which precedes this order,

It is hereby ordered:

1. The rates found to be reasonable herein are hereby established to be charged by the Monterey County Water Works.
2. The foregoing rates shall be effective twenty days from the date hereof.
3. The order herein of date October 8, 1914, is hereby vacated and set aside.

Dated at San Francisco, California, this 25th day of January, 1916.

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DECISION No. 3058.

IN THE MATTER OF THE APPLICATION OF GLENDALE LIGHT AND POWER COMPANY FOR RATIFICATION OF THE SALE OF CERTAIN PROPERTY TO THE CITY OF GLENDALE.

Application No. 2046.

Decided January 25, 1916.

Applicant, unaware of the provisions of the Public Utilities Act, transferred to the city of Glendale certain electric distributing lines without first securing the necessary authorization of this Commission. It now applies jointly with the city for an order authorizing such transfer. Application granted.

W. G. Cooke, for Glendale Light and Power Company;

H. B. Lynch, manager of public service department, city of Glendale;
and

T. W. Watson, city manager, city of Glendale, for city of Glendale.

REPORT OF THE COMMISSION.

Glendale Light and Power Company applies to the Railroad Commission for an order authorizing the sale of the company's property in and adjacent to the city of Glendale to said city in April, 1912. The city of Glendale joins in the application.

Glendale Light and Power Company formerly served the cities of Glendale and Tropico, which adjoin each other, and the adjacent territory with electric energy. In 1909 it sold to the city of Glendale that portion of its system lying within the original limits of that city and gave, at the same time, an option to purchase other portions of its system which might be included in any territory thereafter annexed by the city upon terms to be fixed at the time of transfer by a board of appraisers. Certain territory served by the company was annexed to the city of Glendale at an election held in 1911.

On April 18, 1912, the city purchased, pursuant to said option, the system lying within the annexed territory, paying cash therefor, and at the same time purchased that portion of the system not included within the original city limits nor the limits of the territory annexed, to be paid for in four installments, three of which have been paid and the last of which, amounting to \$1,596.00, became due and payable January 1, 1916.

The agreed price for the property purchased April 18, 1912, was fixed by representatives of the city and the company at that time at original cost less depreciation, the overhead and legal expenses having been allowed for and included in the purchase price of the system

lying within the original city limits, which was purchased by the city in 1909. The city has ever since been in the actual possession and enjoyment of the property.

Before making the final payment of \$1,596.00, the parties have asked for an order of this Commission authorizing the transfer of property in conformity with the terms of said agreement concerning that portion of the system purchased April 18, 1912. It was explained at the hearing that it was only recently that the parties realized that the approval of this Commission would be necessary to the validity of the transaction.

It appears to be for the public interest that the application be granted. The approval of the Commission should be followed by the execution and delivery to the city of suitable conveyance for the property at a date subsequent to the date of the order herein.

ORDER.

Glendale Light and Power Company having applied to the Railroad Commission for an order authorizing it to transfer to the city of Glendale its property used for supplying electric energy to the inhabitants of Glendale and vicinity, in which application the city of Glendale joins, and a public hearing having been held thereon and it appearing that said property has been heretofore actually transferred to the city of Glendale and is now being used by it, and it appearing that said property has been paid for except for a final payment of \$1,596.00, which became due January 1, 1916,

It is hereby ordered that upon payment to Glendale Light and Power Company of said sum of \$1,596.00, said company be and it is hereby authorized and empowered to execute and deliver to the city of Glendale on or before March 1, 1916, suitable conveyance for all of said property so purchased and heretofore transferred to said city.

Within ten (10) days after the execution and delivery of said conveyance and the payment of said sum, the parties hereto shall report to the Railroad Commission, in writing, the fact of said conveyance, the payment of said sum and the date thereof.

Dated at San Francisco, California, this 25th day of January, 1916.

DECISION No. 3059.

IN THE MATTER OF THE APPLICATION OF THE MONTEREY COUNTY
WATER WORKS FOR LEAVE TO CONVEY PART OF ITS WATER
SYSTEM TO PACIFIC IMPROVEMENT COMPANY.

Application No. 1657.

Decided January 25, 1916.

Monterey County Water Works applies for permission to transfer certain of its water rights, reservoirs and transmission mains to the Pacific Improvement Company. This water system was transferred to the water company by the improvement company several years ago and it now appearing to applicants that it would be advisable to re-deed certain portions back to the improvement company, the water company to retain all rights and property necessary to properly serve its consumers, application granted.

Richard Bayne and *J. P. Langhorne*, for the Monterey County Water Works.

Goodfellow, Eells, Moore & Orrick, for the Pacific Improvement Company.

Carmel Martin, city attorney, for the city of Monterey,

H. G. Jorgenson, city attorney, for the city of Pacific Grove.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

In this application the Monterey County Water Works asks for authority to transfer to Pacific Improvement Company the property referred to in Exhibit "A" attached to the application. Pacific Improvement Company joins in the application. In general, the property to be transferred as described by applicant, consists of the following:

(a) The Carmel dam and dam site and surrounding lands, together with the right to maintain and operate said dam and headgate, or any other storage or diversion works, for taking water from the Carmel River. The water to be taken from the Carmel River in any one year by Pacific Improvement Company shall not exceed 35 per cent of the total flow of the river. The instrument of sale also reserves to The Monterey County Water Works a right of way across the property to be conveyed to Pacific Improvement Company, for the purpose of constructing a pipe line to Carmel River, if and when desired.

(b) The Pacific Grove reservoir and surrounding lands, except the pump house and site.

(c) The pipe line from the Carmel dam to the twelve-inch Y branch near corner "N" of the Clay Pitts Reservoir tract; also the pipe line from twelve-inch Y branch around the Clay Pitts Reservoir to the Pacific Grove valve-house, and thence to the valve-house in the Hotel Del Monte grounds, with necessary rights of way for said pipe lines.

(d) The sum of \$34,353.00 on deposit with the International Banking Corporation in San Francisco, and constituting a part of the depreciation reserve amounting to \$131,079.38 on December 31, 1914, and a proportionate share of subsequent accretions.

The property proposed to be retained by the Monterey County Water Works and that transferred, with the values as estimated by the Commission's engineers, is shown in the tabulation below:

Structures	Pacific Improvement Company	The Monterey County Water Works
Land	\$6,269	\$4,204
Carmel dam	20,500	
Pacific Grove reservoir	75,284	
Clay Pitts reservoir		176,999
Tulareitos survey	2,950	
Carmel main	313,900	
22-inch main		231,582
12-inch main		16,876
16-inch main	96,102	
Buildings	3,725	4,638
Tanks		227
Pumping equipment		9,547
Ventura meters	1,073	1,865
General stock and equipment		31,064
Monterey district		136,272
Pacific Grove district		130,163
Unincorporated district		45,266
Water rights and rights of way	31,767	42,079
Current construction for year 1914		11,337
Totals	\$551,570	\$812,119

By deed dated August 27, 1907, Pacific Improvement Company conveyed all of the foregoing, together with other property, to the Monterey County Water Works, including certain rights of way across certain of its ranches and the grounds of the Hotel Del Monte. The deed reserves to the grantor "sufficient water for domestic and stock uses of said Hotel Del Monte" and the grounds and drives used in connection therewith and for certain irrigation uses upon its said ranches, all as therein more fully set forth. It also provides in part as follows:

"And in consideration of said purchaser bringing said water to said hotel and grounds and for the uses above mentioned and maintaining the efficiency of said plant and pipe lines up to at least their present efficiency and so as to be able to supply said vendor, its successors and assigns, with said water for said hotel purposes, said vendor, its successors or assigns, shall pay to said purchasers, its successors or assigns, the sum of ten thousand (\$10,000) dollars a year, and no more."

The rates of the water works were attacked as unreasonable and unjust by the city of Monterey in Case No. 500. The utility thereupon

filed application for an increase in rates. The two matters were consolidated and heard together and rates established by this Commission in its Decision No. 1855. (Vol. 5, Opinions and Orders of the Railroad Commission of California, page 530.)

In due time the utility applied for a rehearing and Pacific Improvement Company joined in the proceeding as intervenor. The city of Monterey and the city of Pacific Grove were both represented by counsel at the hearing. Meanwhile the new rates so established have remained suspended and not in effect. Pursuant to the constitutional authority given the Commission to regulate the utility rendering the service, the rates so established included rates for service to the hotel and ranches.

Applicants wish to divide the system and the burden of serving the water. The proposed division will provide for each a substantially independent system, except that the water works will depend upon the company to divert the water and carry it a short distance to the main of the water works. Very careful consideration has been given to the plan proposed and to the terms of the proposed deed submitted as the means of carrying it out. Some slight modifications have been suggested and adopted by the parties.

The amount of water which the improvement company under the deed may divert for its own uses is found by Mr. Hawley, the hydraulic engineer of the Commission, to be about the same amount which the company has heretofore been applying to a beneficial use in its hotel, grounds and ranches. It proposes to at all times maintain the properties used in part for service of the water works in as serviceable and efficient condition as they now are, operate its pipe line to its full capacity and deliver into the 22-inch main of the water works or any main substituted therefor 65 per cent of the quantity of water reaching that point, which will furnish sufficient water for the water works for several years to come. When necessary, the water works may take direct increased amounts of water up to 65 per cent of the flow of the river. The parties agree to submit all disputes concerning division and delivery of water for the determination of this Commission. The improvement company also agrees to guarantee to the extent of \$10,000.00 a year the gross revenue of the water works from sales until sales equal or exceed 27,000,000 cubic feet per year for a period of three consecutive years.

The annuity fund is to be divided in the proportions heretofore determined by Mr. Hawley to be referable to the portions of the system taken by each of the parties, which is a satisfactory division.

In view of the provisions of the deed of August 27, 1907, by which the grantor reserved for its private use water for its hotel and ranches

and the facts and circumstances surrounding the use subsequent to that time, the proposed arrangement is just and equitable.

Pacific Improvement Company owns all the stock of The Monterey County Water Works. The portion of the system retained by the water works is sufficient to insure suitable service to the public.

In reference to the amount of capital stock heretofore issued by The Monterey County Water Works, the management has stated that it will reduce its stock to an amount commensurate with the value of the assets retained.

The arrangement authorized herein will make it unnecessary to provide rates for service to the hotel and ranches, and the schedule of rates heretofore provided for The Monterey County Water Works has accordingly been modified in that and certain other particulars by the Commission's decision on application for rehearing in the original case and application. Reference is hereby made to the decision therein, which is filed today.

I submit the following form of order:

ORDER.

The Monterey County Water Works having requested authority to convey to Pacific Improvement Company certain portions of its water works system and to enter into contract relating to the use of the water of Carmel River, in which application Pacific Improvement Company joins, and a public hearing having been held thereon and the matter having been submitted for determination and the Commission being now fully advised,

It is hereby ordered that The Monterey County Water Works be and it is hereby authorized and empowered to pay to Pacific Improvement Company, the sum of \$34,353.00, with accretions from its certain fund on deposit with the International Banking Corporation in San Francisco, accumulated and set aside for the replacement and repair of its said water works system, and to convey to Pacific Improvement Company the property described in Exhibit "A" attached hereto and made part hereof; and to execute and deliver to said company indenture in the form set forth in Exhibit "A" attached to the application, as modified in accordance with the suggestions of the Commission; the property to be conveyed and the terms and conditions upon which it is to be received and held being fully set forth in said indenture.

This order is made upon the following conditions and none other, to wit:

(1) The approval herein given of said indenture is for the purpose of this proceeding only and an approval only in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval thereof as to any other legal requirements to which said indenture may be subject.

(2) The authority hereby given shall continue only for a period of thirty days from date hereof.

(3) Applicant shall report to this Commission in writing within ten days after the execution and delivery of said indenture and the payment of said sum of money the fact of the execution and delivery thereof, and the payment of said sum.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission.

Dated at San Francisco, California, this 25th day of January, 1916.

EXHIBIT "A."

Referred to in and made a part of decision of the Railroad Commission of the State of California, No. 3059, in Application No. 1657: being properties described in and to be conveyed by proposed indenture between The Monterey County Water Works, a corporation, and Pacific Improvement Company, a corporation.

All those certain lands, water rights, pipe lines and other property, situate, lying and being in the county of Monterey, State of California, which are specifically described as follows, to wit:

(A) The Carmel dam-site and surrounding lands, described as lot sixteen (16) of section twenty-three (23); lot four (4) of section twenty-four (24); and the southwest quarter ($\frac{1}{4}$) of the northwest quarter ($\frac{1}{4}$), and the west half ($\frac{1}{2}$) of the southwest quarter ($\frac{1}{4}$) of section twenty-four (24), all in township seventeen (17) south, range two (2) east, Mt. Diablo meridian, according to the public surveys of the Government of the United States, together with the Masonry dam, and appurtenances thereon constructed, and the right to maintain and operate said dam and headgate, or any other storage or diversion dams or works for taking water from the Carmel River, which may hereafter be constructed by the party of the second part, provided that the water so to be diverted from the said Carmel River for use of the party of the second part (exclusive of the water to be delivered to the party of the first part under the covenants of this deed), shall not exceed in any one year thirty-five (35) per cent of the total flow of said river, measured at the point of diversion. The party of the first part reserves from the above deed a right of way across said land for any pipe line or pipe lines, flumes or ditches, it may hereafter at any time or times, or from time to time, construct to convey water from the Carmel River, along such line or lines as it may select for that purpose at any time or from time to time, and which will not interfere with the dam or pipe lines of the party of the second part.

(B) That certain tract of land that includes the Pacific Grove reservoir, being a part of the Point Pinos rancho, and which is more particularly described as follows: Beginning at a stake marked "A" set in the Armenta line, this being the easterly boundary line of the Point Pinos rancho, opposite the corner, on Line street, of lots one (1) and two (2) of block ten (10) Intermedia tract, Monterey, and fifteen (15) feet northwesterly from said corner, thence running north thirty-one (31) degrees two and one-quarter ($2\frac{1}{4}$) minutes west, one hundred and sixty-one and $\frac{37}{100}$ (161.37) feet to stake; thence north sixty-four (64) degrees nineteen and one-quarter ($19\frac{1}{4}$) minutes west, four hundred forty-three and $\frac{4}{100}$ (443.04) feet to stake; thence in a westerly direction along the southerly line of Hillcrest avenue three hundred seventy-four and $\frac{44}{100}$ (374.44) feet to the northeast corner of block one hundred and ninety-four (194) of the Hillcrest tract, in the city of Pacific Grove, California; thence south eight (8) degrees twenty-one and three-quarters ($21\frac{3}{4}$) minutes west, five hundred one and $\frac{39}{100}$ (501.39) feet to a stake, which is the southeast corner of said block one hundred and ninety-four (194); thence south seventy (70) degrees thirty-eight (38) minutes east, four

hundred and forty-seven (447) feet to a stake, said stake being set in the Armenta line before mentioned; thence along said Armenta line north fifty-eight (58) degrees fifty-seven and three-quarters ($57\frac{3}{4}$) minutes east five hundred eighty-nine and $80/100$ (589.80) feet to a stake marked "A," the point of beginning.

Said tract of land hereby conveyed includes the Pacific Grove reservoir, outlet gate house and tunnel and other appurtenances appertaining thereto, together with the line of twelve (12) inch cast iron pipe running from the said reservoir to Hillcrest avenue, in the city of Pacific Grove, and connecting with the line of twelve (12) inch cast iron pipe located in said street and hereinafter conveyed to the party of the second part.

Also the following described lots, being also part of the tract of land upon which the Pacific Grove reservoir is located and being more particularly described as lots five (5) to seventeen (17) inclusive, in block ten (10) of the Intermedia tract in the city of Monterey, as laid down and delineated on the map of said Intermedia tract, recorded in the county recorder's office of the county of Monterey.

Also that piece of land lying between the westerly city limit line of the city of Monterey, and the west boundary line of block ten (10) of the Intermedia tract, and being originally that part of Line street, city of Monterey, lying between the dividing line of lots four (4) and five (5), block ten (10), Intermedia tract, and the southerly city limit line of the city of Monterey, said portion of the said Line street having been abandoned by the city of Monterey.

The said party of the first part reserves from this grant the tract of land described as follows: Beginning at the above mentioned stake marked "A" and running north thirty-one (31) degrees two and one-quarter ($2\frac{1}{4}$) minutes west eighty-eight and $7/10$ (88.7) feet along the line between the above described Reservoir tract and lot one (1), block one hundred eighty-five (185) of the Hillcrest tract, of the city of Pacific Grove, to the northwest corner of said lot one (1), block one hundred eighty-five (185) of Hillcrest tract, thence south fifty-seven (57) degrees fifty and three-quarters ($50\frac{3}{4}$) minutes west sixty-six (66) feet along the southerly line of Second street produced westward; thence south twenty-six (26) degrees twenty-nine and three-quarters ($29\frac{3}{4}$) minutes west fifty-one and thirty one-hundredths (51.30) feet; thence south thirty-four (34) degrees twenty and three-quarters ($20\frac{3}{4}$) minutes east sixty (60) feet, along the northward prolongation of the dividing line between lots four (4) and five (5), block ten (10) of the Intermedia tract, in the city of Monterey, to a point on the southerly boundary line of the above described Reservoir tract; thence northwesterly along said southerly boundary line to stake "A," the point of beginning.

The party of the first part also reserves a right of way across the said Reservoir tract for the eight (8) and twelve (12) inch suction lines and for the sixteen (16) inch waste line of the pumping plant now located on the said tract of land herein reserved and last above described.

The said party of the first part hereby covenants for itself, its successors and assigns, that the said party of the first part, its successors and assigns, will not use the said tract of land last above described, nor lots two (2), three (3) and four (4), of block ten (10), Intermedia tract, nor the tract of land that was formerly that part of Line street, in the city of Monterey, lying to the north of the said lots two (2), three (3) and four (4), of block ten (10), for any other purpose than for the maintenance and operation of pumping plants and storehouses, and will not build thereon, or allow to be built or conducted thereon, any stable, dwelling house, water closet, privy or any other structure or structures, the drainage from which would endanger the purity of the water stored in the said reservoir.

(C) Also the following described pipe lines together with the trestles, shut-off gates, blow off gates and connections, air valves and connections, and fittings that are now in any part of the said pipe lines (but not including the pipes and valves in the cross connections that now exist between said pipe lines and the pipe lines owned and reserved by the said party of the first part): namely:

That pipe line running from the Carmel dam in a general westerly and northerly direction through the Carmel Valley, Carmel City and the Pescadero rancho to the

twelve (12) inch "Y" branch located near corner "N" of the Clay Pitts Reservoir reservation, as described in the deed of conveyance executed by the Pacific Improvement Company to The Monterey County Water Works, dated August 27, 1907, and recorded in Vol. 98 of Deeds, page 154 Monterey County recorder's office; which pipe line consists of approximately thirty-four thousand nine hundred and twenty-six (34,926) feet of eighteen (18) inch diameter riveted pipe, two thousand nine hundred and fifty and six-tenths (2,950.6) feet of twenty-two (22) inch diameter riveted pipe, nine thousand five hundred and four-tenths (9,500.4) feet of fifteen (15) inch diameter riveted pipe, twenty-six thousand one hundred fifty-six and two-tenths (26,156.2) feet of fifteen (15) inch O. D. converse joint pipe and thirty-two thousand eight hundred seventy-two (32,872) feet of twelve (12) inch diameter cast iron pipe. Also the pipe line, consisting of approximately two thousand thirty-one and eight-tenths (2,031.8) feet of twelve (12) inch diameter cast iron pipe, running from the above mentioned twelve (12) inch "Y" branch in a general northerly direction around the Clay Pitts Reservoir to the twelve (12) inch "Y" branch located in the line of twelve (12) inch pipe connecting with the twenty (20) inch "Y" branch at the end of the twenty (20) inch outlet pipe to the Clay Pitts Reservoir, the said twelve inch "Y" branch being about four hundred and ten (410) feet northerly from the said twenty (20) inch "Y" branch. Also the pipe line running from the twenty (20) inch "Y" branch at the end of the above mentioned twenty (20) inch outlet pipe of the Clay Pitts Reservoir, through the Pescadero rancho in a northeasterly direction to the northwest boundary line of the Pescadero rancho, which is also the southeasterly boundary line of the Point Pinos rancho, and from thence in a northeasterly direction through the Point Pinos rancho to the southern corporate limits of the city of Pacific Grove, and thence in an easterly direction to the city of Pacific Grove along Hillcrest avenue to the Pacific Grove Valve House tract, which is located at the intersection of Ninth street and Eardley avenue, in the city of Pacific Grove, thence across said tract and into the valve house and connecting to the twenty (20) inch "Y" branch in the line of twenty (20) inch pipe in the said valve house, the line consisting of approximately ten thousand five hundred (10,500) feet of twelve (12) inch cast iron pipe, and one hundred and ninety-nine (199) feet of twelve (12) inch riveted steel pipe.

Also the line of twenty (20) inch diameter cast iron pipe running from the outlet gate house of the Pacific Grove reservoir across the tract of land upon which is located the said reservoir; thence along Gate street in the city of Pacific Grove, to the Pacific Grove Valve House tract, thence across said Valve House tract and into and through the said valve house to the connection with the line of sixteen (16) inch cast iron pipe on Eardley avenue, in the city of Pacific Grove. The said line of pipe consisting of approximately seven hundred and eighty (780) feet of twenty (20) inch cast iron pipe.

Also that line of sixteen (16) inch cast iron pipe running from the end of the above mentioned twenty (20) inch pipe in the Pacific Grove Valve House, along Eardley avenue to Light House avenue, and along Light House avenue to a point on the easterly boundary line of the city of Pacific Grove, which is also the westerly boundary line of Monterey; thence easterly along Light House avenue and Hawthorne avenue to the westerly boundary line of the United States Military Reservation, and thence crossing the United States Military Reservation in a general easterly direction and across Light House avenue to a point on the easterly boundary of the United States Military Reservation which also is the westerly boundary line of the right of way of the Southern Pacific Railroad Company; thence in a southeasterly direction along and upon the right of way of the Southern Pacific Railroad Company to a point on the easterly boundary line of the city of Monterey, which is also the westerly boundary line of the Hotel Del Monte grounds, and from this point through the grounds of the Hotel Del Monte to the Valve House located in the Del Monte grounds. The said line consisting of approximately twelve thousand three hundred and ninety-five (12,395) feet of sixteen (16) inch cast iron pipe and two thousand seven hundred and forty-two (2,742) feet of sixteen (16) inch riveted steel pipe.

Together with all necessary rights of way for maintaining, renewing and operating said pipe lines and connections and for installing and maintaining any new pipe line or pipe lines which the party of the second part may construct along said rights of way, at any time or from time to time, reserving, however, to the party of the first part the right to install, maintain, renew and operate any pipe lines which it may hereafter construct upon and along any said rights of way, provided that such reserved right and the right herein granted to the party of the second part shall not be so exercised as to interfere with or endanger the pipe lines of either party hereto.

Together with all and singular the tenements, hereditaments and appurtenances to all said properties belonging, or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

DECISION No. 3060.

COUNTY OF COLUSA

vs.

NORTHERN CALIFORNIA POWER COMPANY.

Case No. 877.

Decided January 25, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainant in the above entitled matter having made written request for dismissal,

It is hereby ordered by the Railroad Commission of the State of California that the above entitled complaint be and the same hereby is dismissed without prejudice.

Dated at San Francisco, California, this 25th day of January, 1916.

DECISION No. 3061.

IN THE MATTER OF THE APPLICATION OF SANTA PAULA HOME TELEPHONE COMPANY FOR AUTHORIZATION TO PURCHASE CERTAIN PROPERTY OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY LOCATED IN AND IN THE VICINITY OF THE CITY OF SANTA PAULA; TO ISSUE ITS NOTE IN PAYMENT THEREOF AND TO APPLY ITS PRESENT SCHEDULE OF RATES TO ALL SUBSCRIBERS WHEN THE TWO SYSTEMS SHALL HAVE BEEN COMBINED; AND OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AUTHORIZATION TO SELL CERTAIN OF ITS PROPERTY LOCATED IN AND IN THE VICINITY OF THE CITY OF SANTA PAULA TO SANTA PAULA HOME TELEPHONE COMPANY.

Application No. 1655.

Decided January 25, 1916.

Applicants operate telephone exchanges in the city of Santa Paula and vicinity and finding that competitive systems in this locality are not profitable apply for permission to transfer the system of the Pacific company to the Santa Paula company for a consideration of \$25,400.00.

After review of the conditions in this locality, in which it appears that if this transfer takes place the patrons of these two systems will enjoy a considerably improved service with the exception that the Santa Paula company does not provide a four party service as does the Pacific company, application granted, provided that the Santa Paula company extend to its new subscribers service at the same rates as it now has on file with the Commission excepting those receiving four party line service, these to continue receiving this service at the same rates as heretofore.

A. H. Blanchard, for Santa Paula Home Telephone Company.

J. T. Shaw, for The Pacific Telephone and Telegraph Company.

W. C. Snyder, city attorney, for City of Santa Paula.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

The applicants in this proceeding are public utility corporations owning and operating telephone systems in the city of Santa Paula, Ventura County, California, and vicinity. The two corporations are competitors in business, each system having been in operation before the Railroad Commission acquired jurisdiction. Santa Paula Home Telephone Company was organized during the year 1905, after The Pacific Telephone and Telegraph Company had already been operating in the territory, and since its organization has secured the greater part of the local patronage. It appears that The Pacific Telephone and Telegraph Company is now operating at a loss in this field, and a tentative agreement having been reached between it and Santa Paula Home Telephone Company, this application has been drawn up by both parties seeking the authorization of the Railroad Commission for the sale of the Pacific company's local system and the consolidation of the two to be owned and operated by Santa Paula Home Telephone Company.

The Pacific Telephone and Telegraph Company owns and operates a general system of local exchanges and long distance toll lines throughout this and other Pacific coast states. Its Santa Paula exchange is connected with its long distance toll system to provide long distance connections to outside points. Santa Paula Home Telephone Company does not operate exchanges in other cities, but has lines extending from Santa Paula to the town of Saticoy and to or near the town of Fillmore. The Pacific company operates exchanges at Saticoy and Fillmore and under the terms of the proposed sale Santa Paula Home Telephone Company will continue to serve its present patrons at these places, but will not take on other patrons. In other words, its operations, except as to present business, will be confined to the city of Santa Paula and vicinity. The Pacific company will take care of all of its present business and such additional business as may be offered at Saticoy and Fillmore, but will retire from the city of Santa Paula so far as local exchange business is involved. The Pacific company's toll lines, how-

ever, will connect with the Santa Paula company's exchange for long distance connections to outside points.

The property to be sold to Santa Paula Home Telephone Company will be all of the Pacific company's local exchange property in Santa Paula excepting such portions of it as may not be required by Santa Paula company. None of its long distance toll properties will be included in the sale. As shown in the application, this plan will involve,

(1) The sale of property the original cost of which is not known, but of which the present value, as fixed by The Pacific Telephone and Telegraph Company, is \$27,845.58, for the sum of \$25,400.00, and the consolidation of the two plants.

(2) The application of the present rate schedule of Santa Paula Home Telephone Company to all subscribers of the combined system upon the completion of the proposed consolidation, this rate schedule to continue in effect for a sufficient time to enable the Commission to determine the revenues and expenses resulting from such operation.

(3) The withdrawal of the Pacific Telephone and Telegraph Company from the local field except for long distance toll service.

The present plant of Santa Paula Home Telephone Company is, for the most part, in a poor condition. In numerous places throughout the city, particularly in the business section, temporary construction has been placed by stringing wires on knobs attached to the sides of its poles. Most of the subscribers' leads are of open wire construction where trees are troublesome and where cable construction should be employed. In the outlying sections, open wires have been placed on power poles and the power company has ordered their removal. Many of Santa Paula company's poles are in poor condition and must be taken down and replaced, and many of the subscribers' lines are now taxed beyond their normal capacity. The plant requires a general overhauling and additional plant should be provided not only to relieve the present overloaded circuits but to take care of additional business as it may be offered.

Representatives of the company have stated that for some time past a consolidation of the two plants has been contemplated, and that as their consolidation would bring about the needed improvements and also provide sufficient additional facilities for a considerable future period, other action has been deferred pending the outcome of the contemplated consolidation. It is claimed that the price for which it can purchase the Pacific company's property and the cost of combining the two will be approximately the same as it would cost to purchase new material from other sources and perform the necessary work to provide a similar plant. It is, of course, obvious that if the latter course were followed both companies would continue in competition

for the business and the public would continue to carry the double burden when one company could, perhaps, as well if not better serve the entire community. If, by consolidating the two systems, the cost of maintaining the present duplication can be eliminated and if the public may be as well served by one company, such course will work to the public benefit.

With reference to the value of the property which The Pacific Telephone and Telegraph Company proposes to dispose of to Santa Paula Home Telephone Company and to its value to the Santa Paula company after the consolidation:

An inventory and appraisal of this property fixing its present value at \$27,845.58 has been filed with the application and designated as Applicants' Exhibit "B." It has been estimated that the cost of construction and plant rearrangement necessary to combine the two systems will amount to approximately \$1,875.00. The selling price of the property is fixed at \$25,400.00; thus, with the addition to this price of the estimated cost of the physical consolidation, \$1,875.00, Santa Paula company would acquire property claimed to be valued at \$27,845.58 for \$27,275.00. Plans have also been drawn up showing in detail the work which it is proposed to do to combine the two plants as embodied in the estimate of \$1,875.00. Testimony was introduced at the hearing of this application to the effect that after the plants have been combined there will remain about 10 per cent of the present property which Santa Paula company proposes to acquire which will not be in use. A survey of the territory and an examination of these plans by the Commission's engineers indicates, however, that there will be very considerably more than this percentage of the combined plants which, in all probability, will remain idle for a considerable period, even allowing for future growth of business; and it is quite probable that if a valuation were being made for rate fixing purposes, a considerable portion of its value would be disallowed.

The Pacific company's plant, however, is in general in very good condition and it is so arranged and of such character that, aside from the fact that it will provide more plant than Santa Paula company will require for present needs, it can without question utilize the remaining portions to advantage at once. The reasonableness of rates is not directly at issue in this proceeding, and since the valuation of the property which it is desired to sell and consolidate with Santa Paula company's present system appears to call for no particular objection aside from the matters to which attention has been directed, and since the value of the property which that company now owns will be very materially affected by the consolidation, and it appearing to the Commission after investigation that the price to be paid for the property is not greatly disproportionate to the value thereof, it does not seem

essential at this particular time to pass upon the value of this property. We shall then next consider the probable effect of applying the present rate schedules of Santa Paula Home Telephone Company to all subscribers of the combined system and to that company's policy with reference to its future operation under those or other rates.

The present rate schedules of Santa Paula Home Telephone Company and those of The Pacific Telephone and Telegraph Company are the same for similar classes of service except that Santa Paula Company's schedules provide rates which are 25 cents per month higher than the Pacific company's rates if subscribers fail to pay their bills on or before the tenth day of the month for which bills are rendered. If payment is made by the tenth of the month, the rates of both companies are the same. The Pacific company's schedule, however, provides a rate for four (4) party residence service, while Santa Paula company's schedule quotes no rate for residence service lower than for two (2) party, and the latter rate is 25 cents per month higher than the Pacific company's four (4) party rate. The effect of applying Santa Paula company's schedule would be to discontinue four (4) party residence service and to require all patrons now having this class of service to take a higher class of service at an advanced rate or to discontinue their service entirely. Instead of permitting this change, I believe that patrons should be allowed the option of retaining the present four-party service if they prefer it and that the same class of service should also be available to any new patrons who may desire it. There are also certain present patrons of the Pacific company who are now paying rates for suburban service which are lower than the rates paid by other patrons of the Pacific company for similar service. This is, of course, a discrimination but one which has been permitted to continue pending future determination by the Commission with reference to the proper disposition of deviations and exceptions from published rates. There appears to be no good reason, however, at this time why Santa Paula Home Telephone Company, if permitted to purchase this property, should not charge all suburban subscribers of the consolidated system similar rates for similar service rather than to require it to continue the discrimination.

With reference to a possible change of present rates after consolidation, Paragraph XV of this application reads:

"That when the two systems are combined, and thereafter until at least sufficient time has elapsed to enable this Commission to determine the revenue and expense resulting from the operation of the consolidated exchange, it is proposed to continue in effect the schedule of rates now charged by Santa Paula Home Telephone Company and on file with this Commission, applying said schedule to all subscribers to the combined service."

The inference is plain that having acquired a monopoly of the business the company's intention is to seek to increase the rates, although it is doubtful whether it would do so in the face of competition. It is also admitted by this company that if, after the consolidation, the present rates will not afford the return to which it may reasonably be entitled, it will apply to the Commission for authorization to increase them.

With reference to the withdrawal of the Pacific company's local exchange service from this territory, there appears to be no objection on the part of the public, provided no unreasonable rate alterations will follow. On the other hand, the present patrons of Santa Paula company who are not also patrons of the Pacific company would have access to the entire toll system of the Pacific company, whereas at the present time their access to toll service is limited to points which can be reached over the system of the United States Long Distance Telephone and Telegraph Company within certain southern portions of California, and the present patrons of the Pacific company who are not also patrons of Santa Paula company will gain access to all points on the lines of the United States Long Distance Company to which the Pacific company's toll lines may not now extend. Further, as the service of the United States Long Distance Company will also be continued, all patrons of the consolidated system who may desire connection with any point which is reached by the toll lines of both long distance companies may have the option of using either company's service. Thus, the only consideration of interest to the general public of this territory on which objection may be based will be with reference to the rates which it may be required to pay following the consolidation.

The Commission, of course, should very carefully consider on the one hand whether public utilities of this character should be permitted to merge when it is apparent that rate increases may result, and on the other hand whether the fact that rate increases may result will be sufficient justification, in view of all of the circumstances, for denying authority to merge.

Santa Paula Home Telephone Company has stated that under the present rates it will be in a position to carry on the business and pay interest on the note which it proposes to give to The Pacific Telephone and Telegraph Company in payment for the property. Attention has also been directed to the probability that, in the event of a valuation of the company's property being made for rate fixing purposes, a portion of the value of the purchased property may be excluded. It is obvious that since a consolidation of the two plants will involve changes in the present plants, thereby necessitating a complete revaluation after consolidation, any subsequent action which may arise involving the reason-

ableness of rates can be considered only on its merits and entirely without reference to the present proceeding. Aside from a consideration of rates, which, under the conditions, can not be determined at this time, it is apparent that a consolidation in this case will be to the benefit of the public. Accordingly, and in view of the circumstances herein referred to, the following order is submitted:

ORDER.

Application having been made by Santa Paula Home Telephone Company for authority of this Commission to purchase certain property of the Pacific Telephone and Telegraph Company located in and in the vicinity of the city of Santa Paula, Ventura County, California; to issue its note in the sum of \$25,400.00, with interest at the rate of 6 per cent per annum, in payment thereof, and to apply its present schedule of rates to all subscribers when the two systems shall have been combined; and application having been made by The Pacific Telephone and Telegraph Company for authority of this Commission to sell certain of its property located in and in the vicinity of the city of Santa Paula, Ventura County, California, to Santa Paula Home Telephone Company; and a hearing having been held and the Commission having been fully apprised in the premises; and it appearing that the public interest will be served by granting the application; and it appearing further to the Commission that the purposes for which the said note is to be issued are for the payment of expenditures which are not reasonably chargeable in whole or in part to operating expenses or to income,

It is hereby ordered as follows:

That Santa Paula Home Telephone Company be and it is hereby permitted to purchase certain property of The Pacific Telephone and Telegraph Company located in and in the vicinity of the city of Santa Paula, Ventura County, California, as described and set forth in an inventory and appraisal which is attached to the application herein and designated as Exhibit "B," for the sum of \$25,400.00.

That Santa Paula Home Telephone Company be and it is hereby permitted to issue its two-year note in the sum of \$25,400.00, bearing interest at the rate of 6 per cent per annum, to The Pacific Telephone and Telegraph Company in payment for the sale of the property herein referred to; said note may be issued under the following conditions and not otherwise, to wit:

(1) The authority herein granted to issue said note shall apply only to such note as may be issued on or before March 1, 1916.

(2) Santa Paula Home Telephone Company shall file with this Commission within thirty days after the note herein authorized has been issued a statement setting forth the note issued under the authority herein granted.

(3) This order shall not be effective in so far as it authorizes a note issue until Santa Paula Home Telephone Company shall have paid the fee prescribed by section 57 of the Public Utilities Act.

That Santa Paula Home Telephone Company be and it is hereby directed, when the systems of both the applicants herein shall have been consolidated as set forth in this application, to apply to all subscribers to the consolidated system, pending the further order of this Commission, its schedules of rates now on file with the Commission, as follows:

	Business	Residence
1 party -----	\$2 75	\$1 75
2 party -----	2 25	1 50
Suburban, 4 to 10 party-----	2 75	2 75
Suburban, 8 to 10 party-----	1 75	1 75
Extensions -----	1 00	50

The above rates, except extension telephones, are subject to a discount of 25 cents if paid on or before the tenth day of the month.

Provided that these present subscribers of The Pacific Telephone and Telegraph Company who now are provided with four-party residence service may, if they so elect, be provided by Santa Paula Home Telephone Company with similar service and at the same rate now paid by them to The Pacific Telephone and Telegraph Company for their present service.

And provided further that the said rate schedule of Santa Paula Home Telephone Company shall be so revised and refiled with this Commission, within thirty days from the date upon which it shall take over the present business of the Pacific company, to provide for a rate for four-party residence service as hereinabove provided.

And it is hereby further ordered that The Pacific Telephone and Telegraph Company be and it is hereby permitted to convey to Santa Paula Home Telephone Company its property as hereinabove provided for.

And it is hereby further provided that the amount hereinabove authorized to be paid by Santa Paula Home Telephone Company for the transfer to it by The Pacific Telephone and Telegraph Company shall not be taken by this Commission or other authority as representing the value for rate making or other purposes of the property herein authorized to be sold and transferred.

This order to be and become effective upon its approval.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of January, 1916.

DECISION No. 3062.

IN THE MATTER OF THE APPLICATION OF BIMINI WATER COMPANY FOR AUTHORITY TO EXECUTE NOTE AND MORTGAGE FOR FIFTY THOUSAND DOLLARS.

Application No. 2048.

Decided January 25, 1916.

Applicant applies for permission to execute a mortgage and to issue a note secured thereby, in the sum of \$50,000.00, bearing interest at 6½ per cent per annum, such note to be issued to refund a note of a like amount, proceeds of which were invested in betterments and improvements to its plant. Application granted.

Porte, Morgan & Parrot, by Vincent Morgan, for Applicant.

REPORT OF THE COMMISSION.

Bimini Water Company seeks authority of the Railroad Commission to mortgage all of its real estate to secure payment of a note for \$50,000.00, dated December 20, 1915, payable to Mortgage Guarantee Company, or order, five years after its date, with interest at 6½ per cent per annum; the proceeds to be used to pay note for like amount in favor of John Maxey & Company, bearing interest at the rate of 7 per cent per annum, due January 1, 1916. The money for the new loan is now in escrow, and has been drawing interest since December 20th last, when it was deposited. Application was filed January 12th, early hearing was requested by telegram January 18th, and hearing conducted at Los Angeles January 20th.

Applicant is a California corporation with an authorized capital stock of \$300,000.00 divided into 3,000 shares of the par value of \$100.00 each, of which \$244,500.00 par value is issued and outstanding, and \$55,500.00 par value remains in the treasury. Among its other activities applicant conducts a hotel, bath house and swimming plunges in connection with mineral springs upon its property in the western portion of the city of Los Angeles. Applicant's articles of incorporation authorize it to engage in the business of developing, storing and transmitting in pipes, ditches and conduits water for irrigation and domestic purposes.

Its property consists of 33 lots, 32 of which are 50' by 150' in size; and the remaining one, upon which the springs, bath house and plunges are located, is about the size of six of said lots. Its buildings consist of a bath house about 245' long by an average width of about 120', two stories in height, constructed of hollow tile and plaster with cement floors and large cement plunges. It was built in 1906 at a claimed cost of \$128,000.00. The hotel building is 78' by 118', two

stories high, built with wooden frame, metal lath and plaster, constructed at a stated cost of \$18,000.00. The total assets of the company, including the lots, bath house and plunges, engine house, machinery, hotel and furnishings are carried on applicant's books at \$295,500.00, of which applicant claims a value of \$200,000.00 for the real estate. No detailed appraisalment of the property was offered at the hearing. The above figures do not include anything for the springs or water.

The property is free of incumbrance except for the present mortgage of \$50,000.00, above referred to, mechanics' liens aggregating about \$400.00, the validity of which applicant is contesting in the courts, and a street lien of about \$3,200.00 growing out of the improvement of Vermont avenue, on which a large part of applicant's property abuts. The street bill has gone to bond under the street law by which it is to be paid by installments extending over a period of ten years, and bearing interest at 7 per cent per annum. Applicant has agreed with the lender that the proposed note and mortgage is to be taken subject only to said street lien. Separate security has been arranged with the title company so that the mechanics' liens will be paid or adjudged invalid, leaving the proposed mortgage subject only to the lien of the street bill.

The proceeds of the present note for \$50,000.00, which applicant wishes to pay from the proceeds of the proposed new note, is invested in the real property of applicant, and represents the balance of the contract price for the construction of its buildings.

As the public interest is not adversely affected, the application should be granted.

ORDER.

Bimini Water Company having applied to the Railroad Commission for an order authorizing it to issue a note in the sum of \$50,000.00, dated December 20, 1915, payable five years after its date to Mortgage Guarantee Company, or order, and bearing interest at the rate of 6½ per cent per annum, for the purpose of refunding a note for a like amount payable to John Maxey & Company, due January 1, 1916, and bearing interest at the rate of 7 per cent per annum, and a public hearing having been held thereon and the Railroad Commission finding that the proceeds of the note which is now to be refunded were used for purposes not reasonably chargeable to operating expenses or to income,

It is hereby ordered that the said application be granted, subject to the following conditions, viz:

1. Bimini Water Company shall report to the Railroad Commission within ten (10) days after the issue of the promissory note hereby authorized the fact of the issue and the terms thereof.

2. The authority hereby given shall not become effective until the Bimini Water Company shall have paid the fee specified in the Public Utilities Act.

3. The authority hereby given shall apply to such promissory note as shall be issued on or before March 1, 1916.

Dated at San Francisco, California, this 25th day of January, 1916.

DECISION No. 3063.

IN THE MATTER OF THE APPLICATION OF BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA, FOR AN ORDER PRESCRIBING THE MANNER, PLACE AND TERMS OF INSTALLATION OF THE CROSSING OF A PUBLIC HIGHWAY ABOVE THE TRACK OF THE SOUTHERN PACIFIC COMPANY NEAR PEYTON, CONTRA COSTA COUNTY, CALIFORNIA.

Application No. 198.

Decided January 25, 1916.

Applicant's petition for permission to construct an overhead crossing over tracks of Southern Pacific Company was heretofore granted, but a misunderstanding arising as to the division of cost a second hearing is held and matters in dispute adjusted, the railroad company to contribute \$5,000.00 towards the cost of such construction.

Geo. D. Squires, for Southern Pacific Company.

T. D. Johnston, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

SUPPLEMENTAL OPINION.

This application was originally filed with the Commission by the board of supervisors of Contra Costa County on August 21, 1912. It asked for an order prescribing the manner, place and terms of installation of an overhead highway crossing over the tracks of the Southern Pacific Company near the town of Peyton. A hearing was held on September 5, 1912, at Martinez, at which it was decided that those interested in the proposed crossing would endeavor to enter into an agreement which would cover the location, construction and division of expense of installing and maintaining the proposed bridge. Plans for this structure and an agreement covering the division of the expense thereof were filed with the Commission on October 16, 1912, and on October 21st the Commission made its order granting the application in accordance with the terms of the agreement, which provided that the expense of the overhead bridge should be divided equally between the county and the railroad company.

The bridge, however, was not constructed under this order, and on September 22, 1915, the county of Contra Costa filed with the Commission a set of revised plans and a revised estimate considerably larger than the original estimate. Inasmuch as the Southern Pacific Company was required by the order to stand one-half ($\frac{1}{2}$) of the expense of this proposed bridge, the Commission sent the plans to that company to secure their approval, as the revised plans contemplated the expenditure of some \$2,000.00 greater than that covered in the original order. The company objected to standing any additional expense over the original estimate, and a second hearing was thereafter held in Martinez on December 7, 1915. It there appeared that the differences between the county and the railroad company were due to a misunderstanding, and this hearing, like the first, resulted in an adjournment pending negotiations for a new agreement between the two parties on the basis of the revised estimate and plans. An agreement was reached, a copy is now before the Commission, and the following order which I recommend, divides the expense in accordance therewith.

SUPPLEMENTAL ORDER.

Contra Costa County, California, having applied to the Commission for permission to construct a public highway above the tracks of the Southern Pacific Company near Peyton, Contra Costa County, California, as shown by the map and profile attached to the application; and it appearing to the Commission that this application should be granted and that the previous order entered in this matter should be annulled,

It is hereby ordered that permission be hereby granted Contra Costa County, California, to construct a public highway above the tracks of the Southern Pacific Company near Peyton, in said county, as shown by the map and profile attached to the application and subject to the following conditions, viz:

- (1) The previous order made in this matter is hereby annulled.
- (2) The expense of constructing the overhead bridge in accordance with the plans and specifications for same which were filed with the Commission on September 20, 1915, shall be divided between the parties as provided in a resolution passed by the board of supervisors of Contra Costa County and filed with the Commission on January 19, 1916, which provides that the Southern Pacific Company shall contribute five thousand dollars (\$5,000.00) toward the expense of this bridge.
- (3) The overhead bridge shall be constructed so that the clearances shall not be less than those prescribed in the Commission's General Order No. 26.
- (4) The county of Contra Costa shall hereafter maintain at its own expense said overhead bridge together with approaches thereto in good and first-class condition for the safe and convenient use of the public.

(5) The Commission reserves the right hereafter to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

Dated at San Francisco, California, this 25th day of January, 1916.

Decision Nos. 3064, 3065 and 3066, grade crossings: not printed. See end of volume.

DECISION No. 3067.

IN THE MATTER OF THE APPLICATION OF VENICE OF AMERICA WATER COMPANY TO ACQUIRE FROM THE ABBOT-KINNEY COMPANY PROPERTIES PERTAINING TO WATER SERVICE IN THE CITY OF VENICE.

Application No. 1921.

Decided January 26, 1916.

Abbot-Kinney Company authorized to sell its water distributing system in the city of Venice to the Venice of America Water Company, and the latter company is authorized to issue \$35,000.00 par value of its capital stock in consideration thereof.

R. C. Gortner, for Applicant.

Charles Fletcher, city clerk, for City of Venice.

REPORT OF THE COMMISSION.

In this application Abbot-Kinney Company asks authority to sell to Venice of America Water Company, a public utility water system located in city of Venice, Los Angeles County. In payment for the property, Venice of America Water Company asks authority to issue \$500,000.00 par value of its capital stock.

At the first hearing applicant presented an inventory of the property in question without appraisal and was not fully prepared at the time to present evidence as to cost, depreciation, history and other data needed for the consideration of the Commission. Adjournment was taken to a date to be fixed to enable the engineer for Abbot-Kinney Company and the engineer for the Commission to agree, if possible, upon an appraisal, and to fully present the entire matter.

A subsequent hearing was set upon the Commission's own initiative for January 5, 1916. It was stipulated at the hearing that from the evidence submitted and from the annual reports on the system, the Commission's engineer should prepare and submit a report upon applicant's property and its appraisal, which report should be used by the Commission for the purposes of the application in lieu of a report by the company's engineer. Applicant requested that the Commission authorize the issue of such an amount of stock as it finds justified from

the presentation so made. The engineer of the Commission furnished the following description of the plant:

The water supply is obtained from two wells located on lot fifteen, block two, Venice Annex No. 2, stored in a 100,000 gallon reservoir located at the plant. The motive power is electric current. The pumping plant, equipment and reservoir are practically new and in good condition. With the exception of the smaller size mains the distribution system is well laid out, the larger mains being principally of cast iron. In 1915, 253 consumers were served, of which about 182 were metered. With the exception of the pumping plant, reservoir and main transmission and distribution pipes, very little information could be obtained as to their present condition or when they were installed. As a consequence, it was not possible to make an accurate estimate as to the amount of accrued depreciation on these items of the plant. The engineer for the Commission estimated the cost new of the physical properties at \$34,793.00, accrued depreciation being roughly estimated at \$4,693.00, leaving \$30,100.00 as the estimated cost less accrued depreciation. This estimate of the Commission's engineer includes no allowance for a one-half interest in the concrete tunnel proposed to be transferred as one of the assets of applicant, nor any estimate of intangible values.

The annual report of this system for the year ending December 31, 1914, shows fixed capital installed to be \$39,411.00, with operating revenues at \$14,218.93 and operating expenses at \$11,346.42. Many items of operating expense should have been charged to capital account rather than to operation and vice versa.

The concrete tunnel above referred to was built by Abbot-Kinney Company in 1905 and 1909 and is 5 feet by 6 feet in size and about 1,000 feet long. Applicant's engineer roughly estimated its cost at \$15.00 to \$20.00 per foot. Sufficient detailed information could not be obtained from the books to show its exact cost. The tunnel is being used for a number of different purposes. It occurs to us, therefore, that it would be more practical for Abbot-Kinney Company to retain the entire title. We are of the opinion that the needs of the Venice of America Water Company, so far as the use of the tunnel is concerned, can be fully satisfied by the execution of a long-term lease at a proper reasonable rental.

Abbot-Kinney Company, in selling lots in the townsite of Venice of America, reserved in each deed rights of way to lay and maintain any and all pipes deemed necessary or convenient. It was urged that this constituted an asset of great value. It appears, however, that the right reserved has been used but rarely. As the utility has a constitutional right to use the streets for its mains, and the right to lay service pipes in private property is necessarily given by the owner in order to pro-

cure service, the reservation does not seem to us an asset of much value to be considered in connection with the application herein.

After due consideration of the evidence submitted by applicants herein, we have concluded that Venice of America Water Company may issue its common capital stock not in excess of \$35,000.00 for the property described in Exhibit "A" hereto attached, and all rights enjoyed in connection therewith.

ORDER.

Abbot-Kinney Company having applied to the Railroad Commission of the State of California for an order authorizing it to sell its water plant located at Venice, Los Angeles County, to Venice of America Water Company, and Venice of America Water Company having asked for an order authorizing it to issue in payment for said property, such an amount of its capital stock as the Commission may deem proper, and a public hearing having been held, and it appearing to the Commission that public convenience will be served by the conveyance of the properties hereinafter described, and it appearing further that the purposes for which Venice of America Water Company wishes to issue said stock are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Abbot-Kinney Company be and it is hereby granted authority to convey to Venice of America Water Company the property described in Exhibit "A" hereto attached and made a part hereof.

It is further ordered that Venice of America Water Company be and it is hereby granted authority to issue 350 shares of its capital stock of the par value of \$100.00 each in payment for said property to Abbot-Kinney Company or its assigns.

The authority herein granted both as to the transfer of property and as to the issue of stock is granted upon the following conditions, and not otherwise:

1. The properties and rights referred to shall be transferred by Abbot-Kinney Company free of encumbrance.

2. Venice of America Water Company shall, in a form satisfactory to this Commission, stipulate that it will undertake all obligations relating to water service now properly binding upon Abbot-Kinney Company.

3. Before said stock is issued Abbot-Kinney Company shall execute and deliver to Venice of America Water Company suitable instrument, or instruments, conveying to it title to the property described in said Exhibit "A." hereto attached.

4. The authority herein granted shall not be considered or treated in any proceeding before this Commission, or any other tribunal, as a

finding by this Commission of the value of the properties to be conveyed for any purpose other than that of the present application.

5. Within thirty days after the transfer herein authorized shall have been made and the stock herein referred to shall have been issued, Venice of America Water Company and Abbot-Kinney Company shall report such fact in writing to this Commission.

6. The authority herein granted shall apply only to such properties and rights as shall have been transferred hereunder, and to such stock as shall have been issued hereunder on or before March 1, 1916.

Dated at San Francisco, California, this 26th day of January, 1916.

EXHIBIT "A" REFERRED TO AND MADE PART OF ORDER IN APPLICATION NO. 1921, VENICE OF AMERICA WATER COMPANY, BEING PROPERTY TO BE CONVEYED BY ABBOT-KINNEY COMPANY TO VENICE OF AMERICA WATER COMPANY.

Real Estate.

Lot 15, block 2, Venice Annex No. 2 (3,380 square feet) 61.46 frontage on Millwood avenue.

Pump House.

One-story frame. Concrete floor. Plastered inside. Floor space—1,122 square feet.

Concrete Reservoir and Sand Traps.

One concrete reservoir, size 33'x36'.

Five concrete sand traps, size 6 feet by 9 feet.

Capacity of reservoir 100,000 gallons.

Reservoir covered by frame building.

Wells in Service.

Two 15" diameter steel-lined wells, 190 feet deep, inside of pump house building, and the right to use said wells and the water in them.

Capacity of wells, 70 inches each.

Equipment of Pump House.

One 2-stage, 6" horizontal B. J. direct connected pump. Reservoir to mains.

One single-stage, 4" horizontal B. J. direct connected pump. Reservoir to mains.

One single-stage, 3" horizontal B. J. direct connected pump. Reservoir clean out.

One single-stage, 6" Krough direct connected pump. Wells to sand traps and reservoir.

One single-stage, 4" B. J. horizontal pump. Wells to sand traps and to reservoir.

One 5 horsepower Westinghouse motor 220 volts 1700 r.p.m.

One 35 horsepower Westinghouse motor 220 volts 1420 r.p.m.

One 50 horsepower Westinghouse motor 220 volts 930 r.p.m.

Two 20 horsepower Westinghouse motor 220 volts 1420 r.p.m.

All with starters.

One 12"x12" air compressor, belt driven.

One 36"x96" air receiver with safety valve.

50 lineal feet 12 " extra heavy belting.

30 lineal feet 4 " rubber water hose.

50 lineal feet 2½" fire hose with nozzle.

6 gauges, water and vacuum.

One air receiver on main line (water).

Water Mains, Service Lines, Valves and Concrete Manholes.

2,300 lineal feet 6 " wrought iron pipe.
 1,000 lineal feet 6 " cast iron pipe.
 9,800 lineal feet 5 " cast iron pipe.
 4,800 lineal feet 4 " cast iron pipe.
 19,000 lineal feet 2 " galvanized iron pipe.
 6,000 lineal feet $\frac{3}{4}$ " galvanized iron pipe.
 8 6 " gate valves.
 6 5 " gate valves.
 10 4 " gate valves.
 50 2 " gate valves.
 135 $\frac{3}{4}$ " hose bibbs—Canal service.
 12 concrete manholes, iron cover plates.

Material in Stock.**Meters, Pipe Fittings and Valves.**

$\frac{1}{4}$ " Galv. pipe 3 lengths	$1\frac{1}{2}$ " Galv. pipe 8 lengths
$\frac{3}{8}$ " Blk. pipe 5 lengths	2 " Blk. pipe 14 lengths
$\frac{3}{8}$ " Galv. pipe 9 lengths	2 " Galv. pipe 3 lengths
$\frac{1}{2}$ " Blk. pipe 12 lengths	$2\frac{1}{2}$ " Blk. pipe 2 lengths
$\frac{1}{2}$ " Galv. pipe 22 lengths	$2\frac{1}{2}$ " Galv. pipe 8 lengths
$\frac{3}{4}$ " Blk. pipe 4 lengths	3 " Galv. pipe 11 lengths
$\frac{3}{4}$ " Galv. pipe 13 lengths	4 " C. I. pipe 2 lengths
1 " Blk. pipe 8 lengths	6 " C. I. pipe 3 lengths
1 " Galv. pipe 12 lengths	$\frac{1}{2}$ " water meters 4
$1\frac{1}{4}$ " Blk. pipe 15 lengths	1 " water meters 4
$1\frac{1}{4}$ " Galv. pipe 6 lengths	$\frac{3}{4}$ " water meters 8
$1\frac{1}{2}$ " Blk. pipe 27 lengths	
Meters installed.	
2 4 " trident crest (Neptune)	16 $\frac{3}{4}$ " disk meters (Neptune)
11 2 " disk meters (Neptune)	131 $\frac{3}{8}$ " disk meters (Neptune)
10 $1\frac{1}{2}$ " disk meters (Neptune)	1 6 " turbine type (Worthington)
9 1 " disk meters (Neptune)	

Rights of Way.

Right to lay water mains in all streets in Venice of America Tract by reservation in all deeds to city of Venice, also same applies to all lots sold in said tract, right being reserved by deeds, to lay pipes and serve water to all lots.

Right in Reinforced Tunnel.

The right to use perpetually present concrete tunnel in part of business district of Venice is 5' by 6' and about 1,000 feet long, for the entire length thereof, including any future extensions thereof, for the purposes of installing and maintaining therein pipes to convey water to be served to the inhabitants of the city of Venice and vicinity.

Accounts Receivable on Account of Water Service.

Total accounts receivable October 26, 1915, \$779.60. (List to be furnished and collections thereof turned over in cash.)

Also any and all other property used and useful in the service of water in the city of Venice, including reservoirs, tools, materials, machinery, maps, books, records and papers.

DECISION No. 3068.

IN THE MATTER OF THE APPLICATION OF PUENTE CITY WATER
COMPANY FOR AN ORDER AUTHORIZING ISSUE OF STOCK.

Application No. 2037.*Decided January 28, 1916.*

Applicant granted permission to issue 7 shares of its capital stock of the par value of \$50.00 per share, such stock to be issued in lieu of 7 shares heretofore illegally issued, proceeds of which were used for proper capital purposes.

George E. Cross, for Applicant.

REPORT OF THE COMMISSION.

Puente City Water Company asks an order of the Railroad Commission authorizing the sale of 7 shares of its capital stock at par, the proceeds to be used for improvements and betterments in its system.

Applicant is engaged in serving water for domestic and irrigation purposes in and around Puente, Los Angeles County. Its water is pumped from three wells with a capacity of about 90 miner's inches into a reservoir with a capacity of 100,000 gallons, from which it is distributed to 85 to 90 consumers in Puente and to 101 acres irrigated from the system. Its pumps are operated by electric power.

Applicant was incorporated in December, 1909, with an authorized capital stock of \$20,000.00, divided into 400 shares of the par value of \$50.00 each, of which \$11,350.00 par value has been issued and is now outstanding, and the balance remains in the treasury undisposed of. All of its stock has been sold for cash at par except 100 shares, which were issued in exchange for a reservoir site, rights of way, water-bearing land, pumps and machinery then installed and comprising an irrigation plant.

In 1914, Puente City Water Company issued to H. M. Robinson 7 shares of its capital stock of the par value of \$50.00 each without authority from this Commission. This stock was issued for cash. The evidence shows that at the time applicant issued the stock it was not aware that it was necessary for it to secure authority from the Commission. The evidence further shows that the proceeds obtained from the sale of the stock have been expended for purposes in accordance with the provisions of the Public Utilities Act.

ORDER.

Puente City Water Company having applied to the Railroad Commission of the State of California for an order authorizing it to issue \$350.00 par value of its capital stock, said stock being represented by 7 shares of the par value of \$50.00 each, and a public hearing having been held and it appearing that the proceeds obtained from the sale

of the stock are to be used for purposes not reasonably chargeable to operating expenses or to income,

It is hereby ordered that Puente City Water Company be and it is hereby given authority to issue \$350.00 par value of its capital stock, said stock being represented by 7 shares of the par value of \$50.00 each.

The authority herein given is given upon the following conditions, and not otherwise:

1. The 7 shares of stock herein authorized to be issued shall be issued to H. M. Robinson in lieu of a like amount of shares of stock heretofore issued to H. M. Robinson without the authority of this Commission.

2. The stock certificate or certificates representing the 7 shares of stock issued to H. M. Robinson without the authority of this Commission shall be returned to applicant's treasury and cancelled.

3. Within 10 days after the issue of any stock herein authorized, Puente City Water Company shall report to this Commission the fact of the issue and the date and number of certificate or certificates representing said issue and the purposes for which the proceeds obtained from the sale of the stock have been expended.

4. The authority herein granted to issue stock shall apply only to such stock as shall have been issued on or before March 1, 1916.

Dated at San Francisco, California, this 28th day of January, 1916.

DECISION No. 3069.

IN THE MATTER OF THE APPLICATION OF EMPIRE WATER COMPANY AND TULARE LAKE CANAL COMPANY FOR AN ORDER APPROVING A CERTAIN CONTRACT MADE BETWEEN SAID COMPANIES ON MARCH 10, 1915.

Application No. 1984.

Decided January 28, 1916.

Empire Water Company and Tulare Lake Canal Company, the former a public utility and the latter a mutual water company, are authorized to enter into a certain agreement, decided upon with a view to preventing further litigation, the agreement providing for the payment of a sum of money, the construction of a connecting ditch, the maintenance of headgates, etc.

D. Hadsell, for Applicants.

REPORT OF THE COMMISSION.

This is an application by Empire Water Company, a public utility, and Tulare Lake Canal Company, a mutual water company, for an order approving a certain alleged contract made and entered into by

Tulare Lake Canal Company with Empire Water Company and Empire Investment Company, a copy of which alleged contract is annexed to the application herein and marked Exhibit "B."

A public hearing was held upon said application at San Francisco on December 21, 1915. From the evidence it appears that both of said applicants are furnishing water of the Kings River, principally for irrigation purposes, to their respective consumers in Kings County; that the Tulare Lake Canal Company is apparently a mutual water company which furnishes water only to its stockholders and at actual cost, meeting its expenses by stock assessments from time to time as occasion demands, and that the officers of Empire Water Company prior to March 15, 1915, considered their company not to be a public utility company. On that date, however, in Decision No. 2200, this Commission declared that company to be a public utility.

The history of the negotiations leading up to the execution of the contract in question is as follows:

In April, 1900, Kings Canal and Irrigation Company was incorporated for the purpose, among others, of acquiring certain water rights of H. R. Cousins, H. Clawson, and J. W. Barbour to part of the water of the Kings River, said water to be diverted near the center of section 28, township 20 south, range 20 east M. D. B. and M. The point of diversion and the course of a certain slough used in diverting said water were upon the lands of the predecessors in interest of Empire Investment Company. By degrees said Kings Canal and Irrigation Company improved and reconstructed said old slough into a large ditch or canal.

Certain transactions were carried on between Empire Investment Company, its predecessors in interest, the Empire Water Company, and Kings Canal and Irrigation Company, which are fully set forth in the preliminary recitals of said agreement above referred to and which resulted in a certain escrow agreement being entered into on March 2, 1906, between Empire Investment Company and Kings Canal and Irrigation Company, by one of the terms of which it was agreed that Kings Canal and Irrigation Company should have a new point of diversion about a quarter or a half mile further up said river, from which it should build across Empire Investment Company's lands a short line of canal to connect with the aforesaid canal; that Kings Canal and Irrigation Company should deed to the Empire Investment Company that portion of the canal thus abandoned, and the latter company should deed to the former a right of way for said new canal and finally that Kings Canal and Irrigation Company should pay one-half of the expenses of constructing and maintaining a new weir at the new intake; and that the Empire Water Company should have the same interest in the new canal which it had in the old one. It further appears that in

the spring and summer of 1906, and subsequent to the execution of said escrow agreement above mentioned, enormous quantities of water flowed into the Tulare Lake basin through the Kings River and other streams, filling said basin and completely submerging the canal system of Kings Canal and Irrigation Company; that in the year 1914, the water of Tulare Lake for the first time receded sufficiently to make the Kings Canal and Irrigation Company's canal available to its stockholders for the irrigation of their lands, although for several years prior thereto the lands of Empire Investment Company were ready to use water from said canal under the agreement with regard thereto. Accordingly, in the year 1911, Empire Water Company itself constructed said weir and a certain new portion of said canal and began the use thereof in the irrigation of the lands of Empire Investment Company.

In November, 1914, Kings Canal and Irrigation Company transferred all of its rights and property to Tulare Lake Canal Company. The latter at once began to construct an extension of its canal to Tule River and to reconstruct its old system which has now been practically completed, the capacity of said canal being now about one thousand second feet of water. Immediately upon the commencement of work by Tulare Lake Canal Company, the Empire Water Company demanded compliance with the terms of said escrow agreement and declined to allow said new company to proceed with any work upon the property of Empire Investment Company. Mutual litigation to determine the respective rights and obligations of the several companies in the premises was threatened, to avoid which and to determine the respective rights of the parties and to perform to a large extent the terms of said escrow agreement, the parties entered into the alleged agreement, of which they now seek approval.

Said agreement comprises a great many typewritten pages and is too complicated for us to attempt to summarize it in this opinion. Its provisions include the transfer to Tulare Lake Canal Company by Empire Water Company of an undivided one-half interest in said above mentioned weir and an undivided seven-eighths interest in the headgate placed at or near the intake in the canal constructed over the new right of way above referred to, and the construction by the Tulare Lake Canal Company at its own expense of a checkgate in said canal and the maintenance and replacement of said checkgate. It further provides for the improvement and building up of said canal and the completion of a portion of the same, and certain other improvements, seven-eighths of the expense of which shall be borne by the Tulare Lake Canal Com-

pany and the remaining one-eighth to be borne by the Empire Water Company.

It also contains provisions for the transfer to the Tulare Lake Canal Company of the land for the new canal and the transfer by it of the abandoned portion of the canal, and attempts to settle definitely and permanently the mutual rights, relations and obligations of the contracting parties. In addition it provides for the termination of the old escrow agreement, the dismissal of a certain action in the Superior Court of the State of California, in and for the county of Kings, by the Kings Canal and Irrigation Company against the Empire Water Company, said action being further designated as No. 2370, and the payment by the Tulare Lake Canal Company to the Empire Water Company and Empire Investment Company of the sum of \$10,000.00.

It further appears from the evidence that Tulare Lake Canal Company has paid the \$10,000.00 mentioned in said agreement; that the original cost of said weir was \$11,057.45; and that this transaction will benefit the Empire Water Company: first, by the settling of the difficulties between the companies without litigation, which might otherwise jeopardize and disturb the delivery of water to Empire Water Company's consumers; second, by providing for the immediate construction of said canal without cost to this company; third, by having the Tulare Lake Canal Company assume such a large share in the maintenance of the weir, headgates and canal; and, fourth, by receiving payment for a large portion of the cost of said weir.

It further appears that said alleged contract was entered into in good faith by all the parties thereto without realization on the part of any of them that Empire Water Company, as a public utility, required the authorization of this Commission for the execution of such a contract, and that the officers of said Empire Water Company were not familiar with the Public Utilities Act owing to the fact that their company had been declared a public utility only five days prior to the execution of said alleged agreement. It was pointed out to applicants at the hearing, however, that this Commission has no power to ratify a contract void by reason of its having been illegally entered into by a public utility, and, accordingly, applicants asked and received permission to amend their application by asking this Commission to grant the parties to said agreement authority to execute a new agreement between said parties substantially the same as the aforesaid agreement which they had signed on March 10, 1915, with the exception of its dates.

As to the building by the Empire Water Company of the new line of canal above referred to, so far as we have been able to judge from the evidence introduced under or in connection with Case No. 494

(Reported in Vol. 6, Opinions and Orders of the Railroad Commission of California, p. 309), this may not have been a wise investment, but this expenditure is not now before us and has never been passed upon by this Commission. This opinion and order simply holds that, as this expenditure has been incurred, it will undoubtedly be to the advantage of Empire Water Company to receive the cash payment and other reimbursements provided for in said contract hereinafter authorized and to be relieved of seven-eighths of the expense of maintaining the weir, the headgate and that portion of the canal which will be operated jointly.

ORDER.

Empire Water Company, a public utility corporation, and Tulare Lake Canal Company, a mutual water company, having applied to this Commission for an order authorizing the execution and delivery on behalf of Empire Water Company of a certain proposed agreement between Empire Water Company, Tulare Lake Canal Company and Empire Investment Company, hereinafter more specifically referred to, and a public hearing having been held and it appearing that said application should be granted,

It is hereby ordered that said Empire Water Company be authorized to execute a certain contract with Tulare Lake Canal Company and Empire Investment Company to the same effect and in substantially the same wording, with the exception of the dates, as the agreement which said parties signed on March 10, 1915, a copy of which is incorporated in the application herein and designated therein as Exhibit "B."

The authority herein granted is granted upon the following conditions and not otherwise:

1. The contract herein authorized shall not be executed after May 31, 1916.
2. Nothing in the foregoing opinion or in this order contained shall be construed as an approval by this Commission of the original expenditures made by Empire Water Company for which said company is being in part reimbursed under the terms of said contract.
3. Within thirty days after the execution of said contract applicant, Empire Water Company, shall file a copy of the same with this Commission.

Dated at San Francisco, California, this 28th day of January, 1916.

DECISION No. 3070.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF TWO HUNDRED AND SIXTY-SIX THOUSAND DOLLARS AND NOTES OF THE FACE VALUE OF THIRTY-THREE THOUSAND DOLLARS.

Application No. 1731.

Decided January 28, 1916.

REPORT OF THE COMMISSION.

EIGHTH SUPPLEMENTAL ORDER.

Whereas this Commission by Decision No. 2726, dated August 31, 1915, authorized the delivery to Western States Gas and Electric Company of \$182,000.00 face value of bonds, the issue of which was authorized by Decision No. 2550, dated June 30, 1915, provided said Western States Gas and Electric Company deposit with the trustee, Girard Trust Company, the sum of \$182,000.00 in cash, said \$182,000.00 so deposited with the trustee to be withdrawn by applicant herein from time to time in accordance with the order of this Commission permitting the withdrawal; and

Whereas applicant on January 20, 1916, filed a statement showing that it has expended from December 1, 1915, to December 31, 1915, both dates inclusive, the sum of \$12,773.86 for extensions, additions and betterments; and

Whereas applicant has asked for authority to withdraw from the aforesaid fund of \$182,000.00 on deposit with the trustee, the sum of \$12,773.86, and good cause appearing,

It is hereby ordered that Western States Gas and Electric Company be given and it is hereby given authority to withdraw from Girard Trust Company, trustee, the sum of \$12,773.86, said \$12,773.86 being a portion of the fund deposited with the trustee in accordance with Decision No. 2726, dated August 31, 1915, of the Railroad Commission of the State of California.

It is hereby further ordered that Decision No. 2550, dated June 30, 1915, as amended by supplemental orders thereto, shall remain in full force and effect, except as it may be modified by this eighth supplemental order.

Dated at San Francisco, California, this 28th day of January, 1916.

Decision No. 3071, grade crossing; not printed. See end of volume.

DECISION No. 3072.

IN THE MATTER OF THE APPLICATION OF SUBURBAN WATER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 1958.

Decided January 29, 1916.

Applicant applies for permission to issue bonds of the face value of \$25,000.00, and it appearing that as yet it does not hold title to the water system which it was heretofore authorized to purchase, application dismissed.

C. R. Wright, for Applicant.

REPORT OF THE COMMISSION.

This is an application of Suburban Water Company, of Daly City, San Mateo County, for authority to create a bonded indebtedness in the total sum of \$50,000.00, and to issue \$25,000.00 of bonds thereunder for the purpose of refunding and discharging outstanding indebtedness and for extensions to its plant and system.

Suburban Water Company was incorporated in September, 1913. On February 17, 1914 (Decision Number 1282, Vol. 4, Opinions and Orders of the Railroad Commission of California, page 226), this Commission authorized said company to acquire a water system owned by J. W. Bloom, serving consumers in Daly City and vicinity and to issue in payment therefor 30,000 shares of capital stock. The order provided that the property should be transferred free from encumbrances.

At the hearing of this application it developed that Mr. Bloom has been unable to comply with this provision of the Commission's order and accordingly the transfer has not been completed.

Inasmuch as Suburban Water Company has not acquired the title to the properties on which it proposes to issue bonds, it appears that this application should be dismissed without prejudice.

ORDER.

Suburban Water Company having applied to this Commission for authority to issue bonds as hereinbefore set forth, and a hearing having been held, and it appearing to this Commission that for the reasons set forth in the foregoing opinion, said application should be dismissed without prejudice,

It is hereby ordered that the application be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 29th day of January, 1916.

DECISION No. 3073.

IN THE MATTER OF THE APPLICATION OF NORTHERN CALIFORNIA POWER COMPANY CONSOLIDATED, FOR AUTHORITY TO ENTER INTO A CERTAIN AGREEMENT FOR THE EXTENSION OF THE TIME OF PAYMENT FOR CERTAIN OUTSTANDING DEBENTURES ISSUED BY IT.

Application No. 2054.

Decided February 2, 1916.

Applicant applies for permission to enter into an agreement with the holders of \$670,000.00 face value of its series "A" debentures, provided 75 per cent or over of such holders are agreeable thereto, the agreement to provide for the extension of the date of maturity of the debentures from February 1, 1916, to February 1, 1920, and further providing that applicant shall deposit the sum of \$5,000.00 monthly toward the principal thereof. Application granted.

Jared How, for Applicant.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner.*

In this application Northern California Power Company Consolidated, asks for an order authorizing it to enter into an agreement with its Series "A" debenture holders whereby the payment of the debentures is postponed to February 1, 1920. A copy of the proposed agreement is attached to the application herein and marked Exhibit "B."

Northern California Power Company Consolidated was incorporated under the laws of the State of California August 28, 1908. At the time of its organization, it purchased the properties of Northern California Power Company. The vendor had acquired the properties owned by Keswick Electric Power Company, Redding Electric Light Company, Redding Water Company, Tehama Electric Company, Red Bluff Electric Light and Gas Company, Battle Creek Power Company and Wilows Light and Water Company.

This company operated in the northern portion of the Sacramento Valley. The same territory was served by The Sacramento Valley Power Company, which in turn was controlled through stock ownership by Sacramento Valley Power Company.

On February 1, 1912, Northern California Power Company Consolidated entered into an agreement for the purchase of the properties of The Sacramento Valley Power Company. This agreement of sale and purchase followed actual and threatened litigation over water rights and an acute competitive rate struggle. During the early period of the "rate war," The Sacramento Valley Power Company, or its predecessors, competed with Northern California Power Company Consolidated in Shasta and Tehama counties. Later, the lines of The Sacramento Valley Power Company were extended into Glenn County. At

the time the agreement of sale was executed, The Sacramento Valley Power Company lines covered practically all the territory in which Northern California Power Company Consolidated operated. The latter company did not operate in Chico where The Sacramento Valley Power Company was in competition with the Pacific Gas and Electric Company.

Concurrently with the execution of the agreement of sale, and as expressed in said agreement, The Sacramento Valley Power Company agreed to deposit with Anglo-California Trust Company, as escrow holder, a deed, conveyance and bill of sale of all its property, real and personal, of every description to Northern California Power Company Consolidated. By the terms of the agreement, Northern California Power Company Consolidated agrees to pay all floating debt of The Sacramento Valley Power Company and of Sacramento Valley Power Company; to execute its promissory note payable to The Sacramento Valley Power Company for the sum of \$860,500.00; to guarantee by the endorsement of each bond the payment of \$400,000.00 face value of bonds of Sacramento Valley Power Company and \$500,000.00 face value of bonds of The Sacramento Valley Power Company; and to enter into an agreement with the stockholders of Sacramento Valley Power Company and The Sacramento Valley Power Company for the purchase of the stock owned by them. The guaranty to be endorsed upon the bonds of Sacramento Valley Power Company and The Sacramento Valley Power Company reads as follows:

“The payment of interest and principal of the amount mentioned in the bond (and coupons thereto attached) upon which this writing is endorsed, is hereby guaranteed and the undersigned agrees to pay such principal and interest at such time as is specified in said bond and coupons thereto attached.

NORTHERN CALIFORNIA POWER COMPANY CONSOLIDATED,

By _____, President.

Attest, _____, Secretary.”

The promissory note for the sum of \$860,500.00 executed to The Sacramento Valley Power Company is payable July 1, 1941, or before, at the option of the maker, with interest at the rate of 3 per cent per annum, payable upon the maturity of said note without compounding. The note shall be delivered to the Anglo-California Trust Company and held by it subject to the escrow agreement. Upon the performance of the agreement of sale, the note shall be delivered to The Sacramento Valley Power Company. As will be recited hereafter, if the agreement of sale is performed, Northern California Power Company Consolidated will become the owner of all the stock of The Sacramento Valley Power Company, and thus virtually owe the indebtedness to itself.

The agreement of sale further provides for the dismissal of various suits between the Northern California Power Company Consolidated and The Sacramento Valley Power Company, or its subsidiaries; the maintenance of certain actions in statu quo pending the performance of the agreement of sale and the substitution of Northern California Power Company Consolidated, as plaintiff in certain actions brought by The Sacramento Valley Power Company or its subsidiaries. The agreement also provides that on its execution Northern California Power Company Consolidated shall be given possession of all the properties or assets of every description belonging to The Sacramento Valley Power Company. Upon the full performance of the agreement of sale, the aforementioned deed, conveyance and bill of sale shall be delivered to Northern California Power Company Consolidated.

The application now before the Commission relates specifically to the agreement between Northern California Power Company Consolidated and the stockholders of The Sacramento Valley Power Company and Sacramento Valley Power Company. To acquire the stock of these companies, Northern California Power Company Consolidated issued \$860,500.00 face value of 6 per cent Series "A" debentures. The debentures are issued under an agreement dated February 1, 1912. The agreement recites that Sacramento Valley Power Company has an authorized capital stock issue of \$800,000.00 divided into 400,000 shares of the par value of \$2.00 per share. Stock in the amount of \$382,813.00 is outstanding. It further recites that The Sacramento Valley Power Company has an authorized capital stock of \$2,000,000.00, divided into 100,000 shares of the par value of \$20.00 per share. Of the outstanding stock amounting to \$1,314,000.00 stock in the amount of \$800,000.00 is owned by Sacramento Valley Power Company.

The agreement entered into with the stockholders requires all those who sign the agreement to deposit their stock with Anglo-California Trust Company, trustee, to be held subject to the terms of the agreement. As payment for the purchase price of the stock, Northern California Power Company Consolidated agrees to deposit with the Anglo-California Trust Company \$896,000.00 face value of its refunding and consolidating mortgage 5 per cent sinking fund 40-year gold bonds, dated December 1, 1908.

In addition to the deposit of the bonds, Northern California Power Company Consolidated issued its debentures heretofore referred to for the sum of \$860,500.00. The debentures are dated February 1, 1912, and mature February 1, 1915, unless the company avails itself of an option to extend the payment thereof one year. They bear interest at the rate of 6 per cent per annum.

The debentures are payable at maturity, or at any time before, in cash; or at the option of Northern California Power Company Con-

solidated shall be canceled by the release of all or part of said \$896,000.00 of bonds deposited with the trustee at 96 per cent of par.

Of the debentures, the sum of \$296,600.00 face value shall be delivered by the escrow holder to the stockholders of The Sacramento Valley Power Company, provided they deposit \$514,000.00 par value of stock; and \$563,900.00 face value of debentures shall be delivered to the stockholders of Sacramento Valley Power Company, provided they deposit not less than \$350,000.00 par value of the stock out of a total of \$382,813.00 par value of stock outstanding.

Upon the payment of the debentures, or any part thereof, by Northern California Power Company Consolidated, the bonds deposited to release the debentures paid in cash shall be returned to the company.

Northern California Power Company Consolidated agrees that beginning January 1, 1913, and monthly thereafter, it will deposit with Anglo-California Trust Company the sum of \$5,000.00. The deposits shall be used to pay off debentures in the order of their presentation to the trust company.

If the debentures are not paid on the day of maturity, the shares of stock deposited shall be returned to the depositors, provided that such delivery shall not be made until after the expiration of twelve months from the date of maturity of said debentures, if in the mean time the interest is duly paid thereon. If the company pays the debentures and performs the contract of sale, the stock of Sacramento Valley Power Company and The Sacramento Valley Power Company shall be delivered to Northern California Power Company Consolidated. Likewise the deed, conveyance and bill of sale deposited in escrow shall be delivered to Northern California Power Company Consolidated.

Applicant now proposes to enter into a new agreement, dated May 3, 1915, with the Series "A" debenture holders, in which they are asked and agree to waive their right to insist on the payment of the debentures for a period of four years, to and including February 1, 1920. In the mean time, the company agrees to continue to deposit with Anglo-California Trust Company monthly the sum of \$5,000.00, to be applied pro rata to the payment of registered debentures. In the event that the holders of less than 90 per cent in amount of the debentures sign the new agreement, the monthly payment shall be reduced proportionately. The company is given the option to pay the debentures in cash or in bonds heretofore deposited with Anglo-California Trust Company, provided said bonds are taken at 85 per cent of their face value and accrued interest at the date of delivery.

The debenture holders upon signing the agreement shall deposit their debentures with the trustee. If the agreement is not signed by the holders of at least 75 per cent of the outstanding debentures within sixty days from the date of the agreement, the trustee shall redeliver

the debentures to the parties having deposited them. If, on the other hand, 75 per cent sign the agreement, the trustee shall register the debentures and stamp on the back of said debentures a brief statement that the time of payment of said debentures has been conditionally extended to February 1, 1920. Thereafter, the debentures shall be redelivered to the depositors thereof.

The registered holder of any debenture shall be regarded for all purposes as the absolute owner thereof, and payment of or on account of the principal or interest of said debentures shall be made only to or upon the order of the registered holder thereof. No transfer is valid unless made on the books by the registered holder in person, or by his attorney duly authorized, and said transfer noted on the debentures. No interest coupons are to be attached to the debentures. Northern California Power Company Consolidated agrees to pay the interest on the debentures until said debentures are paid. The company agrees that it will pay to the trustee the amount of interest prior to August 1 and February 1 of each year up to and including February 1, 1920, unless said debentures are paid before that date. The trustee will pay the interest to the registered owners. All payments made by the trustee, whether for principal or interest, shall be made by its own checks and the endorsement of the same shall be considered sufficient receipt. The proposed agreement further provides that it in no way shall affect or modify the rights of holders of debentures who refuse to sign said agreement. They retain all the rights they secured under the original agreement dated February 1, 1912.

Applicant reports that of the \$860,500.00 face value of debentures issued February 1, 1912, it has paid and canceled \$190,500.00, leaving \$670,000.00 outstanding. The holders of all of the debentures except persons holding approximately \$30,000.00, have signed the new agreement. The holders of some of the \$30,000.00 have as yet not been located, and it is assumed that many of these will also sign the agreement.

In the application herein, Northern California Power Company Consolidated asks this Commission, if it shall be of the opinion that its jurisdiction applies hereto, to make its order authorizing the applicant to enter into an agreement providing for the extension of the time for the payment of the \$670,000.00 of debentures to February 1, 1920, in the form presented, or in such substantially similar form as shall be agreed upon by the parties thereto "to the end that the time of payment of such outstanding debentures and all thereof shall and may be extended to and until said first day of February, 1920."

At the hearing, the attention of the attorney for Northern California Power Company Consolidated was directed to the circumstance that the approval by the Commission of the contract now presented between

the applicant and the holders of its \$670,000.00 of debentures might inferentially be construed as an approval of the contracts between Northern California Power Company, The Sacramento Valley Power Company and Sacramento Valley Power Company, dated February 1, 1912, and the acts therein agreed to be performed. Attorney for applicant thereupon waived a request for the approval by the Commission of those contracts and of the acts thereunder agreed to be performed, on the ground that the agreements had been entered into before this Commission assumed jurisdiction over the matters covered therein, and on the further ground that their approval was not prerequisite to a determination of the particular matter at issue. He requested on behalf of the applicant that the Commission limit its findings to a determination of its jurisdiction over an agreement between Northern California Power Company Consolidated and the holders of its \$670,000.00 of Series "A" debentures providing for an extension of the payment of said debentures and to the approval of such an agreement.

The applicant has therefore limited its request herein so that it will be unnecessary for this Commission to pass upon the contracts dated February 1, 1912, heretofore mentioned between Northern California Power Company Consolidated, The Sacramento Valley Power Company and Sacramento Valley Power Company, the acts performed and agreed to be performed thereunder and the Commission's jurisdiction thereover.

Certain protests have been filed against the approval of an agreement for the extension of the payment of the \$670,000.00 of debentures by certain parties who now call for the satisfaction of the debt due. It appears, however, that out of \$670,000.00 of debentures, the holders of \$640,000.00 have agreed to the extension. These debentures do not constitute a lien and the holders thereof have the statutory remedies. I do not believe that the application should be denied as to the right of the holders of \$640,000.00 of debentures to postpone the date of the maturity of these obligations on the showing made by the protestants. It appears further that Northern California Power Company Consolidated has assessed its stockholders \$6.00 per share within the last two years and has raised from the assessments the sum of \$600,000.00. It was further stated that it would be the policy of the company to levy further assessments if need be.

The applicant asked the Commission for an order only in case that it should determine that it has jurisdiction over such an agreement as is here proposed. It may well be that an agreement for the postponement of the payment of an obligation by a public utility may be in a form which would not require the approval of this Commission. On the other hand, it may also well be that such an agreement could be drawn in a form that would necessitate such an approval by this Com-

mission. As the applicant has specifically requested that the Commission assume jurisdiction and issue its order, it will be unnecessary to go into this feature of the application at great length.

Under all of the circumstances of this case, I am persuaded that this Commission should not refuse to permit the parties to enter into such an arrangement as is herein proposed, subject to the conditions found in the order herein. I am persuaded that it is advantageous both to the applicant and to its debenture holders to arrange for a postponement of the date of maturity of these debentures on the conditions suggested that the applicant should pay the sum of \$5,000.00 monthly on account. This determination is reached the more readily in view of the general conditions which this applicant now faces and which are reflected in its financial statements which follow.

Applicant reports assets and liabilities as of November 30, 1915, as follows:

<i>Assets.</i>	
Fixed capital:	
Plant investment -----	\$10,011,472.14
Investments:	
Stock in other corporations-----	250.00
Current assets:	
Cash -----	\$202,304.80
Notes receivable -----	2331.63
Accounts receivable -----	77,197.42
Interest and dividends receivable-----	156.23
Materials and supplies-----	91,127.88
Total current assets-----	373,207.96
Prepayments:	
Taxes -----	\$3,675.51
Insurance -----	29.94
Rents -----	37.56
Total prepayments -----	3,743.01
Deferred assets:	
Sinking funds -----	\$262.71
Special deposits, Series "A" debentures-----	30,000.00
Unamortized discount on capital stock-----	8,000,000.00
Total deferred assets-----	8,030,262.71
Suspense:	
Accounts receivable—over 90 days old-----	\$27,248.44
Valuation account -----	45,672.67
Noble Electric Steel Company-----	49,307.90
Oro Electric Corporation-----	3,818.04
Intangible capital -----	2,500.28
Debt discount and expenses—unamortized-----	333.40
Supply expense -----	3,474.28
General -----	21,257.65
Total suspense -----	153,612.66
Total assets -----	\$18,572,548.48
9—25069	

Liabilities.

Stock :		
Common stock -----	\$10,000,000.00	
Assessments -----	599,320.00	
Total stock and assessments -----		\$10,599,320.00
Funded debt :		
Consolidated bonds -----	\$3,964,000.00	
Underlying bonds -----	943,000.00	
Guaranteed bonds -----	900,000.00	
Debenture notes -----	1,154,500.00	
Total funded debt -----		6,961,500.00
Current liabilities :		
Accounts payable—vouchers -----	\$30,225.46	
Pay rolls -----	16,761.10	
Coupon interest matured -----	11,525.00	
Meter deposits -----	2,093.90	
Total current liabilities -----		60,605.46
Accrued liabilities :		
Unmatured coupon interest -----	\$139,465.00	
Unmatured loan interest -----	700.00	
Total accrued liabilities -----		140,165.00
Reserves :		
Reserves invested in sinking fund -----	\$231,262.71	
Reserve for accrued depreciation -----	123,677.00	
Total reserves -----		354,939.80
Suspense :		
Rentals collected in advance -----	\$35.41	
Miscellaneous -----	7,013.69	
Total suspense -----		7,049.10
Surplus -----		448,969.12
Total liabilities -----		\$18,572,548.48

During the eleven months ending November 30, 1915, applicant reports a reduction in its outstanding underlying bonds amounting to \$21,000.00; in Series "A" debenture notes a reduction of \$158,731.20 and in coupon interest matured a reduction of \$113,256.00. The major portion of the funds necessary to effect these reductions were obtained from assessments levied on stockholders. On November 30, 1915, the financial statement of applicant showed cash on hand from assessments amounting to \$188,926.00.

If we estimate applicant's earnings and expenses for month of December, 1915, to be about the same as during the preceding month, applicant reports earnings and expenses as follows:

Item	1915	1914	1913
Operating revenues -----	\$781,570 59	\$771,186 57	\$824,494 72
Operating expenses -----	359,257 90	346,447 92	349,703 25
Net operating revenues -----	\$422,312 67	\$424,738 65	\$474,791 47
Bond and other interest -----	363,552 31	363,998 51	351,585 93
Earnings in excess of interest -----	\$58,760 36	\$60,740 14	\$123,205 54

The operating expenses include taxes. The operating expenses for 1913 include the sum of \$74,219.32 because of depreciation; for 1914 the sum of \$32,817.33 and for 1915 the sum of \$16,272.21. The earnings in excess of interest are the amounts available for miscellaneous purposes such as payment of rent, amortization of debt discount and expenses, writing off uncollectible bills and for other general purposes.

In view of the facts heretofore stated, I recommend that the application herein requested be granted and recommend the following form of order.

ORDER.

Northern California Power Company Consolidated having applied to this Commission for authority to enter into an agreement with the holders of its \$670,000.00 of Series "A" debentures, dated February 1, 1912, or the holders of more than 75 per cent thereof, providing for the extension of the maturity of said debentures from February 1, 1916, to February 1, 1920; said debentures bearing interest at 6 per cent per annum; said agreement to provide for the payment by Northern California Power Company Consolidated of \$5,000.00 monthly on account of the principal sum of said debentures.

And a hearing having been held and it appearing that said application should be granted,

It is hereby ordered that Northern California Power Company Consolidated be granted authority and it is hereby granted authority to enter into an agreement with the holders of its \$670,000.00 of Series "A" debentures, dated February 1, 1912, or more than 75 per cent of the holders thereof, providing for the postponement of the maturity of said debentures from February 1, 1916, to February 1, 1920; said debentures to bear interest at the rate of 6 per cent per annum; and said agreement to provide that Northern California Power Company Consolidated shall pay monthly \$5,000.00 on account of the principal of said \$670,000.00 of Series "A" debentures.

It is hereby further ordered that the approval herein given to Northern California Power Company Consolidated to enter into an agreement for the postponement of the maturity of \$670,000.00 of Series "A" debentures is given on the condition that Northern California Power Company Consolidated file with this Commission a statement that such approval shall not be construed as an approval of the agreements dated February 1, 1912, heretofore made between Northern California Power Company Consolidated, The Sacramento Valley Power Company and Sacramento Valley Power Company, nor the acts performed thereunder, and that such approval as has herein been given shall not be construed as a determination of the value of the properties of Northern California Power Company Consolidated, or The Sacramento Valley Power Company, Sacramento Valley Power Company, or any of them.

Northern California Power Company Consolidated shall file with this Commission a copy of such contract as it may enter into with the holders of its \$670,000.00 of Series "A" debentures, or the holders of more than 75 per cent of such debentures, providing for the extension of the maturity of said debentures to February 1, 1920.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2d day of February, 1916.

DECISION No. 3074.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY OF CALIFORNIA FOR PERMISSION TO ISSUE CAPITAL STOCK AND DEBENTURES AND FOR APPROVAL OF A CERTAIN FINANCIAL PLAN.

Application No. 1999.

Decided January 29, 1916.

REPORT OF THE COMMISSION.

FOURTH SUPPLEMENTAL ORDER.

Whereas the third supplemental order found in Decision No. 3009, dated December 29, 1915, in the above entitled proceeding provides in part as follows:

"Great Western Power Company of California, before using any portion of the proceeds from the sale of said debentures for the purpose of purchasing capital stock of City Electric Company, shall first have secured from the Railroad Commission a supplemental order reciting that Great Western Power Company has filed with the Railroad Commission a stipulation satisfactory in

form, agreeing that it will expend said \$3,000,000.00 to be received from the sale of said capital stock of City Electric Company, only after having secured from the Railroad Commission an order or orders authorizing the expenditure of said money, in the same manner as though said \$3,000,000.00 had come to the treasury of Great Western Power Company from the issue of securities of Great Western Power Company authorized by the Railroad Commission."

and

Whereas on January 27, 1916, Great Western Power Company filed with this Commission a stipulation whereby it stipulates and agrees that it will not expend the sum of three million (3,000,000) dollars to be received from the sale to Great Western Power Company of California of 49,980 shares of the capital stock of City Electric Company, nor any part of said sum, unless and until said Great Western Power Company shall have secured from the Railroad Commission of the State of California an order or orders authorizing the expenditure thereof in the same manner as though said sum of three million (3,000,000) dollars had come into the treasury of said Great Western Power Company from the issue of its securities under the authority of said Railroad Commission; and good cause appearing,

The Railroad Commission of the State of California hereby finds as a fact that Great Western Power Company has filed with the said Railroad Commission a stipulation in compliance with the aforementioned condition found in the third supplemental order, dated December 29, 1915, in the above entitled proceeding.

Dated at San Francisco, California, this 29th day of January, 1916.

DECISION No. 3075.

IN THE MATTER OF THE APPLICATION OF OAKLAND, ANTIOCH AND EASTERN RAILWAY COMPANY FOR PERMISSION TO ISSUE CERTAIN NOTES AND BONDS.

Application No. 1730.

Decided January 31, 1916.

Applicant having submitted a list of notes and accounts payable, which all represent proper capital charges, and having submitted reports of earnings and expenses and amounts advanced by stockholders by which it has released \$46,000.00 face value of bonds pledged as security, the original order in the above entitled application is amended to provide that it may issue such bonds as are now pledged as collateral, together with the \$46,000.00 face value heretofore pledged and \$68,000.00 face value of additional bonds now held in its

treasury; provided, that notes to be issued to stockholders for moneys advanced, and collateral bonds, shall be placed in escrow until the entire amount of \$3.00 per share has been paid in by stockholders.

REPORT OF THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

Whereas in Decision No. 2913, on November 20, 1915, this Commission authorized Oakland, Antioch and Eastern Railway Company to issue certain bonds and notes therein specified on certain conditions therein set out; and

Whereas said order provided that before any of the bonds or notes therein authorized to be issued should be issued the applicant should submit to this Commission a list of its notes and accounts payable which may represent capital expenditures, with a detailed statement in explanation of such capital expenditures; and

Whereas such statement has been filed by the applicant herein; and

Whereas said order of November 20, 1915 (Decision No. 2913), provided further that the proceeds derived from the issue of the bonds and notes therein authorized to be issued should be used solely for the purpose of discharging such of applicant's indebtedness represented by its promissory notes or accounts payable as this Commission should have found by supplemental order to be incurred for proper capital expenditures; and

Whereas it appears after a check of applicant's accounts by the auditor of this Commission that the notes and accounts listed by applicant in its Exhibit "A," filed in connection with the application herein, represent applicant's promissory notes and accounts payable incurred directly, or indirectly, for capital purposes as such capital purposes are described under the classification of accounts for electric railways as established by this Commission; and

Whereas the applicant herein has submitted to this Commission reports of its earnings and operating expenses, as provided in said order of November 20, 1915; and

Whereas the applicant has reported to this Commission the numbers of the bonds now pledged as collateral security for its note indebtedness as provided in said order; and

Whereas said order provided that the bonds thereby authorized to be issued should be only such bonds as are now pledged as collateral security for applicant's indebtedness; and

Whereas it now appears to this Commission that applicant had heretofore collected the sum of \$90,911.00 from its stockholders as part of the loan of \$262,200.00 referred to in said order; and

Whereas it appears further to this Commission that by the use of a part of said \$90,911.00 the applicant released from pledge \$46,000.00 face value of its bonds; and

Whereas it appears further to this Commission, to enable the applicant to carry into effect provisions of its order heretofore made, applicant will require the use of \$68,000.00 additional bonds to be pledged as collateral security; said \$68,000.00 of bonds with said \$46,000.00 of bonds to comprise a total of \$114,000.00 of bonds which applicant proposes to pledge as collateral security for notes in the sum of \$90,911.00 to be issued to such of applicant's stockholders as have advanced said sum of \$90,911.00; said \$114,000.00 to represent the pledge of bonds at such ratio that the face value of the notes shall equal 80 per cent of the face value of the bonds pledged as provided for in said order of November 20th, Decision No. 2913; and

Whereas it appears further to this Commission that the authority to issue said additional \$114,000.00 in bonds should be given only on the condition that applicant shall collect the balance of its loan due from such of its stockholders as shall have heretofore advanced the sum of \$90,911.00; now therefore,

It is found as a fact that Oakland, Antioch and Eastern Railway Company has submitted to this Commission a list of its accounts and notes payable incurred for capital purposes with explanation of such indebtedness.

It is hereby found as a fact that the list of notes and accounts submitted by applicant in Exhibit "A" comprise applicant's notes payable and accounts payable incurred for capital expenditures.

It is hereby found as a fact that applicant has submitted to this Commission a statement of its earnings and operating expenses as provided in said order (Decision No. 2913).

It is hereby found as a fact that the applicant herein has reported to this Commission the numbers of the bonds pledged for its note indebtedness in accordance with the provisions of said order.

It is hereby ordered that the Condition No. 10 of this Commission's order (Decision No. 2913) now reading as follows:

"The bonds hereby authorized to be issued shall be only such bonds as are now pledged as collateral security for applicant's note indebtedness."

shall be amended to read as follows:

"The bonds hereby authorized to be issued shall be only such bonds as are now pledged as collateral security for the applicant's note indebtedness and no other bonds except \$46,000.00 of applicant's bonds heretofore authorized to be issued and now released from pledge and \$68,000.00 of applicant's bonds now held in

applicant's treasury or a total of \$114,000.00 bonds in addition to applicant's bonds now pledged as collateral security for its note indebtedness."

It is further ordered that said \$114,000.00 of bonds, being bonds in addition to bonds now in pledge as collateral security for applicant's indebtedness, may be pledged as collateral security for notes to be issued by applicant to its stockholders in the sum of \$90,911.00; provided, however, that said notes in the sum of \$90,911.00, and said bonds in the sum of \$114,000.00, be placed in escrow with a trust company, and thereafter said notes to be issued in whole or in part and said bonds to be pledged as collateral security for said notes to such of applicant's stockholders who have heretofore advanced said sum of \$90,911.00 as shall hereafter make further advances and loans to the applicant which shall represent an advance or loan, together with the sums heretofore loaned, of a total advance or loan of \$3.00 for every share of stock held by such stockholders.

It is further ordered that the \$90,911.00 in notes and the \$114,000.00 in bonds, referred to in the preceding paragraph, shall not be released from escrow until the applicant shall have rescinded its assessment No. 5 heretofore levied.

It is further ordered that all of the other conditions to be found in this Commission's order of November 20, 1915 (Decision No. 2913), and supplements thereto, not in conflict with the order herein, shall remain in full force and effect.

The foregoing third supplemental order is hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 31st day of January, 1916.

Decision No. 3076 grade crossing: not printed. See end of volume.

DECISION No. 3077.

IN THE MATTER OF THE APPLICATION OF SACRAMENTO VALLEY
AND EASTERN RAILWAY FOR PERMISSION TO ABANDON CARRY-
ING OF FREIGHT.

Application No. 1780.

Decided February 4, 1916.

Applicant operating a railroad between the towns of Pit and Bully Hill alleges that there is practically no freight haulage offered and that this service is maintained at a considerable loss and accordingly apply for permission to discontinue such service. The evidence offered upholding this contention, applicant permitted to discontinue the transportation of freight in carload quantities beginning March 1, 1916.

Thos. B. Dozier, for Applicant.

C. L. Wilson, Protestant.

G. G. Pollock, for Ross Construction Company, Protestant.

C. C. Carleton, for California State Highway Commission, Protestant.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

This is an application on behalf of Sacramento Valley and Eastern Railway for an order of this Commission permitting the abandonment of freight service on its line of railroad, it being alleged that the operation of the line for the carriage of freight has been conducted at a heavy financial loss. Public hearings were held at San Francisco on September 18th and October 22, 1915, the matter was submitted and is now ready for decision.

The Sacramento Valley and Eastern Railway extends from the station of Pit on the line of the Southern Pacific Company to Bully Hill, a distance of 14.83 miles. The line follows the canyons of the Pit River, Squaw Creek and Towne Creek, through a mountainous country with abrupt slopes and narrow valleys. The line was originally constructed to serve the plant of the Bully Hill Copper Mining and Smelting Company at Winthrop (railroad station, Bully Hill), and during the years in which the mining and smelting company was operative the business of the railroad was profitable. The smelter of the Bully Hill Copper Mining and Smelting Company has not operated for the past five years by reason of differences with the federal authorities regarding the disposition of the smelter smoke and fumes and the working of the mines serving the smelter has been discontinued. Due to the suspension of operation of the mines and smelter the business of the Sacramento Valley and Eastern Railway has steadily decreased and although the train service has been reduced to a minimum heavy loss from operation has been in evidence. At the present time the passenger service is cared for by a gasoline motor car which makes one round trip daily connecting with the Southern Pacific Company's train at Pit. The motor car is also equipped to haul a small trailer upon which small package freight is transported. Carload freight service is handled by a steam locomotive and service is given on an average of one day per week. The carload freight business is extremely light and it is alleged does not return the cost of operation, there being practically no carloads offered for movement beyond the station of Herault. The stations of Copper City and Bully Hill furnish or receive no freight that requires transportation in carloads and such less than carload freight intended for or shipped from these stations could be accommodated by the trailer car that is hauled by the gasoline motor.

The record of the business transacted by the Sacramento Valley and Eastern Railway for the fiscal years 1912 to 1915 inclusive is as follows:

Gross earnings from operation	Fiscal year, 1912	Fiscal year, 1913	Fiscal year, 1914	Fiscal year, 1915
Passenger earnings—				
Passenger	\$2,680 85	\$3,327 45	\$2,069 15	\$2,171 45
Excess baggage				
Mail	626 28	624 72	626 28	617 03
Express	403 89	384 19	329 15	208 55
Other revenue from transportation				
Other revenue from operation				
Total passenger earnings.....	\$3,711 02	\$4,336 36	\$3,024 58	\$2,997 03
Freight earnings—				
Freight revenue	\$6,381 04	\$9,429 73	\$4,099 61	\$6,888 60
Other revenue from transportation				
Other revenue from operation				
Total freight earnings.....	6,381 04	9,429 73	4,099 61	6,888 60
Total miscellaneous earnings from operation				
Total gross earnings from operation	\$10,092 06	\$13,766 09	\$7,124 19	\$9,885 63
Operating expenses—				
Maintenance of way and structures	\$4,081 80	\$3,357 41	\$11,016 50	\$16,596 63
Maintenance of equipment	546 02	3,937 68	1,215 08	4,084 65
Traffic expenses				
Transportation expenses	9,137 37	9,639 50	7,063 71	5,234 84
General expenses	5,935 60	5,244 74	4,640 79	2,936 55
Total operating expenses.....	\$19,700 79	\$22,179 33	\$23,936 08	\$28,852 67
Net loss from operation.....	\$9,608 73	\$8,413 24	\$16,811 89	\$21,964 07

The above record of net losses from operation indicate that some relief from existing conditions is properly sought by the applicant.

The protestants against the granting of this application offered no material evidence as to the present existence or immediate probability of earload shipments of freight in an amount even approximating the cost of freight operation and as the Sacramento Valley and Eastern Railway offered at the hearing of this case through its attorney and president to care for all freight offering for shipment in less than earload quantities, I am of the opinion that this application should be granted in so far as it refers to the handling of freight in earload lots until such time as the volume of the earload business justifies the restoration of such class of service.

I therefore recommend the following form of order:

ORDER.

Sacramento Valley and Eastern Railway having made application to this Commission for an order permitting the suspension of freight

operation on its line of railroad between the stations of Pit and Bully Hill, public hearings having been held and the Commission being fully advised in the premises,

It is hereby ordered that Sacramento Valley and Eastern Railway Company be and the same hereby is authorized to discontinue the transportation of freight in carload quantities, same to be effective on March 1, 1916, and this permission to continue thereafter until the further order of this Commission.

The Commission reserves the right to make such further order as to it may seem just and reasonable or as the public necessity and convenience may require.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 4th day of February, 1916.

DECISION No. 3078.

IN THE MATTER OF THE APPLICATION OF J. W. BLOOM TO CONVEY A WATER DISTRIBUTING SYSTEM TO THE SUBURBAN WATER COMPANY AND OF THE SUBURBAN WATER COMPANY TO ACCEPT SUCH CONVEYANCE AND ISSUE STOCK THEREFOR.

Application No. 953.

Decided February 4, 1916.

J. W. Bloom, owner of a water system serving Daly City, heretofore applied and was granted permission to sell such system to the Suburban Water Company, provided that all indebtedness owned by the water company would be discharged prior to the transfer. Finding it impossible to discharge this indebtedness, he now applies for permission to transfer the water system with present incumbrances for a lesser amount of stock than was formerly provided and it appearing that the property in question was mortgaged and notes issued thereunder without the necessary authorization of this Commission, application denied until such time as applicant shall have cleared title to his property by straightening out the mortgage and notes heretofore illegally issued.

C. G. Wright, for Applicant.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL OPINION.

This is a supplemental application for a modification of Decision No. 1282 (Vol. 4, Opinions and Orders of the Railroad Commission of California, page 226), in which this Commission authorized J. W. Bloom to sell a water system serving consumers in Daly City, San Mateo County, and vicinity, to Suburban Water Company in exchange for

30,000 shares of capital stock of the latter company of the par value of \$1.00 per share.

On November 13, 1915 (Application No. 1958), Suburban Water Company made application to the Commission for authority to issue \$50,000.00 of bonds. At the hearing of said application it developed that the transfer as authorized by the above mentioned Decision No. 1282 had never been completed and that Suburban Water Company had issued no stock other than three shares for incorporation purposes. J. W. Bloom, testifying for Suburban Water Company, stated that the reason for not completing the transfer was his inability to pay off the encumbrances on the water system, as provided in Decision No. 1282.

In the present supplemental application Mr. Bloom requests authority to transfer his water system to Suburban Water Company with encumbrances, taking in payment a correspondingly less amount of stock.

Mr. Bloom has furnished the Commission with a statement of the encumbrances on his water system as of January 18, 1916. This statement shows a total indebtedness of \$8,028.42, of which \$2,865.89 is represented by open accounts and the balance by notes, secured and unsecured, and the accrued interest thereon.

Before passing to a consideration of this indebtedness it is necessary to explain briefly Mr. Bloom's relations with City and Suburban Investment Company. City and Suburban Investment Company was formed in 1912 to acquire the water system and real estate properties owned by J. W. Bloom. The formal transfer of these properties was made on December 13, 1912. Thereafter Mr. Bloom's attention was called to the fact that the transfer of his water system had been made without authority from this Commission and was therefore illegal. Accordingly the water system was withdrawn from City and Suburban Investment Company and authority asked to transfer said property to Suburban Water Company. As a result of these transactions the indebtedness on the water system has been incurred in some instances under the name of J. W. Bloom and in some instances under the name of City and Suburban Investment Company. Furthermore, certain of the obligations incurred under the name of City and Suburban Investment Company represent obligations chargeable in part to the real estate properties and in part to the water system.

Following is a statement in tabular form of the notes and mortgages on the water system of J. W. Bloom as of January 18, 1916:

Maker	Payee	Principal	Accrued interest	Date of note	Date of maturity	Interest rate, per cent.	Security
City and Suburban Investment Co. and J. W. Bloom.	M. B. Ryan..	\$192 50	\$3 84	9/16/15	One year after date.	6	Unsecured.
(a) City and Suburban Investment Co.	J. W. Wright & Sons Investment Company.	\$2,055 10	\$46 70	10/15/15	\$1,000 in 18 mos., bal. in 3 years.	7	Unsecured.
(b) City and Suburban Investment Co.	Oscar Heyman & Bros. (assigned to M. B. Ryan).	\$183 33	\$20 51	3/ 4/13	Payable in 3 semi-annual installments.	6	Lots 40, 41 and 42, Blk. "S," Mission Street Land Co., S. F.
(c) City and Suburban Investment Co. and J. W. Bloom.	M. B. Ryan..	\$1,100 00	\$60 55	2/18/15	One year after date.	6	Chattel mortgage on machinery and tools.
Total.....	-----	\$3,530 93	\$131 60				

(a) Renewal of a one-day note. Issued without authority from the Commission. The total principal sum of this note is \$4,110.21, one-half of which is stated to be an obligation of the water system.

(b) Note issued and mortgage executed without authority from the Commission.

(c) Mortgage executed without authority from the Commission.

In addition to the above items Mr. Bloom includes among the encumbrances on the water system an item of \$1,500.00, payable to Lizzie Lobree. The history of this item is as follows:

On January 27, 1911, J. W. Bloom executed a note to Lizzie Lobree in the sum of \$5,000.00, giving as security therefor a deed of trust on twenty lots in Ocean View Park, San Francisco. This note bore interest at the rate of 10 per cent per annum and was payable in installments over a two-year period. Thereafter \$1,500.00 was paid on account and two lots were released. On May 24, 1915, the eighteen lots remaining were sold at private sale to Mrs. Lobree under the terms of the deed of trust. On June 15, 1915, Mrs. Lobree granted a one-year option by the terms of which she agrees, under certain conditions, to resell the property to J. W. Bloom. Under this option \$500.00 has been paid and two lots have been released. Of the sixteen lots remaining, four form an essential part of the water system, being the site

of the reservoir and pumping plant. Mr. Bloom states that Mrs. Lobree will release these four lots for \$1,500.00, and accordingly includes this sum in the statement of his indebtedness.

It thus appears that the title to an important portion of the water system, namely, the site of the pumping plant and reservoir, no longer stands in the name of J. W. Bloom.

It further appears that a considerable portion of the indebtedness which Mr. Bloom proposes should be assumed by Suburban Water Company has been incurred without authority from this Commission.

The application for permission to sell this property was originally made in order to separate the public utility business of Mr. Bloom from his other activities. No essential change in ownership was, or is, involved. While this Commission ordinarily looks with favor upon the separation of public utility business from other business, it does so only because of the greater simplicity with which the affairs of the utility may be handled and regulated. To allow Mr. Bloom to transfer his water system to a new corporation under the arrangements as proposed in the application herein would only result in further complication. Before this transfer can be allowed all necessary steps should be taken by Mr. Bloom to clear the title on his property and immediate application should be made to this Commission for authority to execute mortgages and notes in lieu of those illegally issued. Until such steps are taken, it does not appear that the public interest will be served by the granting of this application.

FIRST SUPPLEMENTAL ORDER.

J. W. Bloom and Suburban Water Company having applied to this Commission for authority to transfer certain public utility property and issue stock as herein before set forth, and a hearing having been held and it appearing to this Commission that for the reasons set out in the foregoing opinion said application should be dismissed without prejudice,

It is hereby ordered that the application herein be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 4th day of February, 1916.

Decision No. 3079, grade crossing; not printed. See end of volume.

DECISION No. 3080.

W. J. ROGERS AND CENTRAL PACIFIC LAND AND LUMBER COMPANY
vs.

SACRAMENTO VALLEY WEST SIDE CANAL COMPANY AND WILLIAM
F. FOWLER, RECEIVER OF THE PROPERTY OF SACRAMENTO
VALLEY WEST SIDE CANAL COMPANY.

Case No. 597.

SACRAMENTO VALLEY REALTY COMPANY ET AL.
vs.

SACRAMENTO VALLEY WEST SIDE CANAL COMPANY AND WILLIAM
F. FOWLER, RECEIVER OF THE PROPERTY OF SACRAMENTO
VALLEY WEST SIDE CANAL COMPANY.

Case No. 673.

Decided February 7, 1916.

Subsequent to the original order of the Commission in the above entitled proceedings, landowners served by defendant's system met with defendant and arranged to take over and operate this system as a mutual company. It being impractical to put this plan in effect for the irrigation season of 1916, interested parties apply to the Commission for a modification, for one season only, of the schedule heretofore established.

Held, defendant permitted to collect rates as heretofore established for water delivered at the banks of its main and river canals, provided, however, that the amount of water charged for shall be the amount delivered at the private laterals of consumers, all losses in delivery being borne by the company. Consumers to construct such new laterals as may be necessary and to stand all expenses for maintenance and repairs. Schedule of payments also established.

REPORT OF THE COMMISSION.

SUPPLEMENTAL OPINION.

On June 14, 1915, the Commission made an order in these proceedings fixing the rates to be charged for water furnished from the water system of Sacramento Valley West Side Canal Company, now operated by William F. Fowler, receiver thereof, and further directed that water be supplied in accordance with the terms of said order.

Since the date of said order the bondholders of the water company and the landowners under the system have been negotiating with reference to the purchase and operation of the water system by the landowners themselves through organization of mutual water companies and irrigation districts. A tentative plan has been agreed upon by the bondholders and the landowners.

The Commission does not in this proceeding pass upon the merits of that plan, nor does it here express any opinion with reference thereto.

It is conceded by all parties to be impossible this year to consummate any plan for the purchase and operation of the canal system by the land-

owners such as that proposed. The irrigation season begins about the first of April and if water is to be furnished this year from this system it is necessary that certain preliminary work in the construction of laterals be immediately commenced.

Accordingly, in order to provide for the furnishing of water during the irrigation season of 1916, the complainants in these proceedings have asked the Commission to allow to go into effect for the present irrigation season a slightly different arrangement than that provided in the order heretofore made on June 14, 1915, which arrangement more closely accords with the contemplated plan of purchasing and operating the system by the landowners.

A request for this supplemental order is made by the following parties complainant in these proceedings: Sacramento Valley Realty Company, California Midland Realty Company, Charles L. Donohoe, H. J. Barceloux, Frank Spooner, William Schilling, A. D. Girard, M. S. Hess, Frank Shotts, Blanche Durbrow, F. M. Temple, Peter Barceloux Company, Estate of P. R. Garnett, H. W. Garnett, Lacey Williamson Company, The Spaulding Company, L. Lindsey, Owen Dunlap, George X. Fleming, William Spaletta, Lloyd T. Lacy, M. C. Dethlefs, S. C. Pierce, J. J. Curry, W. H. Crook, H. Jameson, O. L. Raper, G. M. Hanson, D. R. Linebaugh, C. T. Dillard, J. E. Knight, J. W. Farmer, Mrs. A. C. Troxel, Mrs. L. M. Newsom, W. B. Baylor, George E. St. Louis, Henry E. Reed, A. E. Duncan, Frank Miller, C. R. Wickes, Edgar Hunter, John S. Figge, A. Gollnick, Boyd Millar, E. E. Avery, Charles Glenn.

William F. Fowler, receiver of this canal system, has acquiesced in the modified arrangement, to be effective only during the present irrigation season.

This modified arrangement contemplates that the rates fixed by the Commission in its order heretofore made on June 14, 1915, shall be charged for water served at the bank of the main and river branch canals, and that the landowners themselves shall bear the cost of maintaining and operating the laterals during the irrigation season of 1916.

As before stated, the Commission does not here pass upon any plan for the purchase and operation of this canal system by the landowners. That matter is not now before us.

We are of the opinion that the order heretofore made on June 14, 1915, is entirely just and reasonable. In view, however, of the negotiations which have been under way between the bondholders and the landowners, and in view of the request for a modification of that order for the season of 1916 being made by all the complainants above mentioned and acquiesced in by the receiver, it appears to the Commission that a modification of its order solely for the season of 1916 may under these circumstances be made.

SUPPLEMENTAL ORDER.

In accordance with the foregoing supplemental opinion, the Railroad Commission hereby makes its order as follows:

1. Sacramento Valley West Side Canal Company and William F. Fowler, receiver of the property of said company, are hereby authorized to charge for water furnished at the bank of the main and river branch canals during the irrigation season of 1916 the following rates:

Flat Rates.

For rice ----- \$7.00 per acre per annum.
For all other crops ----- \$2.00 per acre per annum; or

Measured Rates.

Where water is measured, the rate shall be \$2.00 per acre per annum for the use of one and one-half ($1\frac{1}{2}$) feet per acre during the irrigating season, with an additional charge of \$1.50 per acre-foot per annum for each acre-foot used in excess of one and one-half ($1\frac{1}{2}$) acre-feet.

The amount of water for which rates shall be charged shall be the amount of water finally delivered at the private laterals of the landowners, the company bearing the loss due to evaporation and seepage between the main and river branch canals and the land where the water is used.

2. Such additional laterals as may be necessary to serve the landowners under the system of Sacramento Valley West Side Canal Company shall be constructed at the expense of the landowners and according to standard specifications of Sacramento Valley West Side Canal Company.

3. The cost of operating and maintaining the laterals during the irrigation season of 1916 shall be borne by the landowners and not by the receiver.

4. Where it is necessary to construct gates in the bank of the main and river branch canals, through which water is to be delivered, said gates shall be constructed and maintained by and under the supervision of the Sacramento Valley West Side Canal Company and the receiver thereof; provided that the landowner shall advance the cost of the same.

5. The landowners desiring water for the irrigation of lands during the season of 1916 shall make application to the utility in writing, describing the land desired to be irrigated and the kind of crops to be raised thereon; this application to be made on or before March 1, 1916, on the condition that a payment of 10 per cent of the cost of the water applied for shall accompany the application, the balance to be paid in five equal monthly installments. Such payments may be evidenced by promissory notes dated the first day of each month beginning May 1, 1916, all payable November 1, 1916. Such notes to be secured by a crop mortgage, which shall be a first lien on the crop, or, in case such crop mortgage can not be given, then other security shall be given to the

satisfaction of the utility, such notes to bear interest at the rate of 7 per cent per annum, and on the further condition that the water to be furnished to landowners for the season of 1916 shall be furnished in the order of furnishing provided in this Commission's order heretofore made on June 14, 1915.

6. This order shall remain in effect to and including October 31, 1916.

It is to be understood that this order is made solely for the irrigation season of 1916, and that the order heretofore made on June 14, 1915, shall remain in effect except as modified by this order and shall again be in full force and effect upon the expiration of this order.

Dated at San Francisco, California, this 7th day of February, 1916.

DECISION No. 3081.

MONTEBELLO CHAMBER OF COMMERCE

vs.

WHITTIER HOME TELEPHONE AND TELEGRAPH COMPANY.

Case No. 881.

Decided February 7, 1916.

Defendant at present serves eight consumers in the town of Montebello. Under an agreement with The Pacific Telephone and Telegraph Company, also serving this town, it is bound not to take on any additional patrons. Complainant petitions the Commission to compel defendant to serve such other residents of this town as might desire service.

In connection with a former application of defendant company for a certificate authorizing the exercise of franchise rights within the town of Montebello, it was found by the Commission that this locality was adequately served by the Pacific company, and that the entrance of an additional company would merely tend toward a duplication of existing facilities. Application was accordingly granted, provided that applicant continued to serve only such consumers as were heretofore receiving service. No reason appearing to warrant a change in this holding, complaint dismissed.

A. Noore, for the Complainant.

A. Wardman, for the Defendant.

J. G. Mott and C. F. Mason, for The Pacific Telephone and Telegraph Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is a complaint in which the Montebello Chamber of Commerce alleges that Whittier Home Telephone and Telegraph Company has provided telephone connection with the town of Whittier for certain patrons within the town of Montebello, but refuses to provide a similar service for others in Montebello, and asks that the Railroad Commission

order the company to discontinue the alleged discrimination by providing service to all applicants within the town and in the territory served by it.

Whittier Home Telephone and Telegraph Company, defendant in this case, operates a system of telephone lines in this and adjacent territory with central exchange switchboards in the towns of Whittier and Downey. For long distance service, connections are had with the toll systems of The Pacific Telephone and Telegraph Company and the United States Long Distance Telephone and Telegraph Company. In the town of Montebello, it now has eight patrons whom it serves over subscribers' lines extending from its Whittier exchange and who have the privilege of connecting with all other patrons of that exchange without payment of toll charges. For this service flat monthly rates are charged. What the complainants now desire is that the defendant be required to provide similar service to all others in Montebello who may desire it.

Prior to the entrance of defendant into Montebello with its lines, which was prior to the effective date of the Public Utilities Act conferring jurisdiction upon the Railroad Commission, The Pacific Telephone and Telegraph Company had been and still is serving patrons in this territory over subscribers' lines extending from its exchange in the city of Los Angeles. An agreement was later entered into between the two companies, under the terms of which The Pacific Telephone and Telegraph Company was obligated to discontinue its then local business in Whittier, and Whittier Home Telephone and Telegraph Company was obligated to make no further extensions in Montebello. Patrons of the Pacific company at Montebello desiring to talk with patrons of Whittier company at Whittier may do so only over the Pacific company's toll lines by the payment of toll charges.

A hearing of the complaint was held on January 27th and objection was entered by The Pacific Telephone and Telegraph Company on the grounds that it is adequately serving the territory and is ready and willing to supply service to all who may require it, and that if the people of Montebello desire it to do so it is willing to establish a central office exchange in the town. The burden of the testimony offered was to the effect that service from the defendant is desired chiefly for the reason that such service would enable the users to talk to Whittier and the sections now connected with the Whittier switchboard without the payment of toll charges. Aside from this consideration, however, it is apparent that the further extension of service by defendant would result in further duplication of plant and a consequent double burden in rates upon the public of this community. The defendant has frankly admitted that to the extent of its present patrons who are also patrons

of The Pacific Telephone and Telegraph Company it is now in competition with that company. At page 139 of the transcript appears the following testimony by the manager of the defendant company:

"Mr. Wardman: '* * * I might state the reason for that is this: The Whittier company has no desire to realize the troubles of duplication. We don't favor duplication; we don't approve of it. We believe, as the Commission stated, that it is an injury in the long run to those people. However, we have looked at this proposition in this way, that we are in here and that it is not exactly a competitive proposition. Still it is to a certain extent a duplication.'

Commissioner Gordon: 'There are four cases where they have both phones.'

A. 'Yes, sir, that is the fact.' "

It is also admitted by the defendant that this community is now being adequately served by the Pacific company.

It appears that so far as this defendant is concerned it does not desire to install additional service in Montebello other than could be provided by the use of lines already constructed, but it is apparent that to permit it to install telephones for applicants who may be located along its present lines and decline to serve other applicants who may not happen to be so favorably located would be to permit it to take the fat and reject the lean, a discrimination in fact which may not be justified, and which would sooner or later lead to further complaint.

The complainant in its presentation of the case has referred to a decision of this Commission rendered on December 28, 1914, after this defendant had sought the authority of the Commission to exercise certain franchise rights in this and other territory. In referring to the exercise of rights and privileges in the town of Montebello, the Commission's opinion reads as follows:

"Applicant is now serving a part of the town of Montebello, but it has not had a franchise permitting it so to do. It has now obtained such a franchise and we are asked to authorize the exercise of the rights and privileges thereunder. The Pacific Telephone and Telegraph Company objects to applicant being allowed to extend its service to new subscribers or new territory within the town of Montebello—in other words, to increase its business in this territory. The Pacific Telephone and Telegraph Company now serves the major portion of this town with its telephone service, applicant only having a few phones in use. Applicant was willing that its business be confined to present subscribers and it was stated that it was not its intention to compete with The Pacific Telephone and Telegraph Company in the town of Montebello, and that its principal purpose was to legalize its present business in that town by obtaining the franchise and the permission of this Commission to exercise rights and privileges thereunder."

The order accordingly contains the following provision:

“This order is made upon the condition that the rights and privileges under said franchise shall be exercised in the town of Montebello only to the extent of permitting Whittier Home Telephone and Telegraph Company to continue to serve its present subscribers in said town with a telephone service.”

There was not sufficient evidence presented at the hearing of this complaint to warrant a reversal or modification of the order here referred to and I shall accordingly recommend an order as follows:

ORDER.

Complaint having been made by the Montebello Chamber of Commerce against Whittier Home Telephone and Telegraph Company, a corporation, alleging discrimination in the matter of providing telephone service within the town of Montebello, and a hearing having been had, and the Commission being fully advised,

It is hereby ordered by the Railroad Commission of the State of California that, for the reasons set out in the foregoing opinion, the complaint herein be and it is hereby dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 7th day of February, 1916.

DECISION No. 3082.

IN THE MATTER OF THE APPLICATION OF A. R. PEDDER FOR PERMISSION TO INSTALL A WATER SYSTEM ADJOINING THE TOWN LIMITS OF DIXON, SOLANO COUNTY, CALIFORNIA.

Application No. 2062.

Decided February 7, 1916.

REPORT OF THE COMMISSION.

A. R. Pedder having applied to this Commission for a certificate of public convenience and necessity to construct and operate a public utility water system in Mayes Bungalow Addition adjoining the town limits of Dixon, Solano County, and it appearing that there is no other utility of like character operating in this territory, and the Commission being of the opinion that said application should be granted.

It is hereby ordered that said application be and the same is hereby granted.

Dated at San Francisco, California, this 7th day of February, 1916.

DECISION No. 3083.

IN THE MATTER OF THE APPLICATION OF GOLETA FARMERS
(INCORPORATED) FOR AN ORDER AUTHORIZING THE ISSUE AND
SALE OF STOCK.

Application No. 2061.

Decided February 7, 1916.

Applicant authorized to issue 1,500 shares of stock of the par value of \$10.00 per share, to be sold at not less than par, proceeds to be used to retire a note in the sum of \$10,900.00, \$4,000.00 for betterments to warehouse properties and 10 shares to be issued in lieu of 10 shares heretofore issued without authorization of the Commission.

E. W. Stow, for Applicant.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner*.

This is an application of Goleta Farmers (Incorporated), of Goleta, Santa Barbara County, for authority to issue and sell 1,490 shares of stock of the par value of \$10.00 per share, for the purpose of paying a note and providing funds for additions and betterments. Applicant proposes to sell this stock at par.

Applicant was incorporated on August 3, 1914, and is the successor of an unincorporated association formed on August 14, 1913, to construct and operate a bean warehouse in Goleta.

At the time that applicant took over the business of the association, notes totaling \$10,900.00 were outstanding. The proceeds from these notes had been used for the purchase of real estate and the construction of a warehouse thereon. On December 13, 1914, these notes were refunded by a new note of \$10,900.00 payable to Santa Barbara National Bank, twelve months after date, bearing interest at 6 per cent per annum.

Applicant's total authorized capital stock is \$15,000.00, being 1,500 shares of the par value of \$10.00 per share.

At the time of incorporation, nine shares of stock were issued in order to qualify the nine directors of the corporation. Subsequently an additional share of stock was sold and issued to E. W. Stow in order that he might qualify as a director in place of S. H. Stow, deceased. These shares were issued without authority from this Commission. They were all sold at par and the proceeds were used for the acquisition of warehouse facilities.

Out of the proceeds from the sale of 1,490 shares of stock, applicant desires to retire the note payable to Santa Barbara National Bank in the sum of \$10,900.00 and to use the balance for the purpose of providing

funds for additions and betterments to its warehouse, including stacking machinery, electric motors and sundry other equipment.

Applicant states that it has already received applications from farmers for approximately 1,000 shares of stock. Applicant estimates the present value of the property as follows:

Real estate -----	\$1,125 00
Buildings -----	6,000 00
Equipment -----	2,000 00
 Total -----	 \$9,125 00

In addition the company has a one-half interest in a spur track which it values at \$797.88.

After consideration of the evidence submitted by applicant, I am of the opinion that this application should be granted. I shall also recommend that applicant be permitted to issue 10 shares of stock in lieu of the 10 shares originally issued for qualification of directors without consent of this Commission.

I recommend the following order:

ORDER.

Goleta Farmers (Incorporated) having applied to this Commission for authority to issue and sell stock as hereinbefore set forth, and a public hearing having been held and it appearing to this Commission that applicant's request is reasonable and should be granted, and that the purposes for which it is proposed to issue said stock are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Goleta Farmers (Incorporated) be and it is hereby authorized to issue 1,500 shares of stock at not less than the par value of \$10.00 per share, for the following purposes:

10 shares in lieu of 10 shares heretofore issued at par to applicant's directors.
1,000 shares to provide funds for the retiring of a note in the sum of \$10,900.00 payable to Santa Barbara National Bank.

400 shares to provide funds for additions and betterments to applicant's warehouse properties.

1,500 total shares.

Goleta Farmers (Incorporated) shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of their order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 7th day of February, 1916.

DECISION No. 3084.

ALEX CUMMINGS AND MARY F. CUMMINGS

vs.

LA RICA WATER COMPANY.

Case No. 829.

Decided February 7, 1916.

Complainants attack the rates of defendant company and petition the Commission to declare defendant a public utility and to award complainants the sum of \$84.00, being alleged excessive rates collected during the last two years. *Held*, that defendant's articles of incorporation provide that it may distribute water to consumers other than stockholders at a profit; that it has been so distributing water to several consumers, and accordingly is a public utility. Defendant directed to remove discrimination in rates at present existing between stockholders and nonstockholders. Complaint in all other respects dismissed.

Harry W. McNutt, for Complainants.

Goudge, Williams, Chandler & Hughes, by *Charles L. Chandler*, for Defendant.

REPORT OF THE COMMISSION.

The amended complaint alleges the rate charged plaintiffs to be excessive, discriminatory and unlawful, and asks that defendant be declared a public utility, subject to the jurisdiction, regulation and control of this Commission, and that it refund the sum of \$84.00, alleged excess in rates collected from complainants within the last two years for irrigation water furnished.

The answer denies that defendant is a public utility, denies that any part of the \$84.00 is due from it, and pleads in justification of the higher rate charged complainants a contract for such a rate between them and the prior owners of the water plant. It denies that it furnishes water to persons other than its stockholders, except to complainant, Mary F. Cummings, and to one William Stevenson, both being supplied with water under a similar contract.

In 1910 H. K. Wheeler and Moses Stewart, ranchers in Los Angeles County, constructed a well and pumping plant for their joint use under oral agreement, each sharing equally in the cost.

On or about January 4, 1911, Lillian Dubois Wheeler, wife of said H. K. Wheeler, sold to complainant, Mary F. Cummings, ten acres of

land described as lot 4 of tract 718, La Puente Rancho, "including a 'water right' for irrigation purposes," and under that date executed and delivered to her a "water right contract" in which it was provided:

"The said party of the first part agrees to furnish as much water as in the judgment of the party of the second part is necessary to irrigate said land, and the said second party shall take and receive the full capacity of said well and pumping plant for such period as may be necessary to irrigate the same.

And it is further agreed that the party of the second part shall pay the sum of one cent per miner's inch per hour for any or all water furnished under this contract by the party of the first part. * * *

It is further agreed that the covenants and agreements herein contained shall run with and be binding on the land whereon the said pumping plant is situated, and the land of the party of the second part as above described, and on the successors and assigns of the parties hereto."

Mrs. Wheeler also sold ten acres of her land to one William Stevenson, executing a similar water contract. Both purchasers have ever since paid \$1.50 per hour for the service of water to the capacity of the pump. The plant was operated by its builders for about two years and on or about May 24, 1912, was conveyed to the newly organized defendant company, subject to above contracts. Wheeler and Stevenson each received in exchange for the plant 430 shares of the capital stock of the new company. Most of their stock has been sold by them. No stock has been sold at more than \$3.00 per share, which is probably about the price assigned to it by the parties to the exchange. The total stock outstanding now is 907 shares.

Defendant is organized as a corporation for profit with a capital stock of \$7,500.00 divided into 1,500 shares of the par value of \$5.00 each. Its articles state its purposes to be, among others, "to sell, furnish and deliver water to others for domestic and irrigation purposes." Its by-laws, however, seem designed for a mutual company. They contain among others, the following provisions:

"* * * Stock shall be issued at the rate of five (5) shares to one acre of land upon which water shall be used, and the ownership of the stock and the land upon which water is to be used thereunder, shall stand in the same person.

Where water is permitted to be used on land not covered by stock in addition to land covered by stock, a rate of one dollar and fifty cents (\$1.50) per hour shall be charged for the proportion of time the water is used as the amount of land not covered by stock bears to the land covered by stock. (From Art. I, section 1.)

Section 6. Water shall only be sold, distributed, supplied or delivered to owners of the capital stock of this corporation. Such stock shall be appurtenant to certain lands when the same are described in the certificate issued therefor." (From Art. I, section 4.)

In practice the water has not been distributed in proportion to holdings of capital stock of the company. Each stockholder has been furnished water as desired in amounts desired, at the same uniform rate, which for some time has been 80 cents per hour for the capacity of the plant whether used on land owned or leased and regardless of the number of shares owned.

The receipts of the company, based on a rate of 80 cents per hour to stockholders and \$1.50 per hour to complainants and Mr. Stevenson, have been sufficient to cover the cost of operation and ordinary repairs, without providing any sinking fund for depreciation. The plant will soon need heavy repairs or replacements. No salaries have been paid, but labor has been hired and paid for. Water is pumped direct into about 720 feet of pipe line, from the end of which water is conveyed in open ditches to most of the users. The capacity of the plant is about 200 inches at the pump and about 125 inches at complainant's land, there being considerable seepage, evaporation and loss in transmission through open ditches.

A comparative statement, furnished since the hearing, of the water in actual service in the fall months of 1912, 1914, and 1915, is as follows:

	1912	1914	1915
August -----	309.10 hours	337.45 hours	363.35 hours
September -----	218.35 hours	310.55 hours	347.55 hours
October -----	200.00 hours	286.05 hours	234.55 hours
Totals -----	727.45 hours	934.45 hours	946.25 hour

It is apparent that defendant is a public utility as defined by section 2 (bb) of the Public Utilities Act and that the rate charged complainants is discriminatory. The return to stockholders should be earned through dividends rather than through the favor of a discriminating rate.

The fact that the contract holders are not subject to assessment with the stockholders to improve the plant is not of great importance, because rates may be so fixed as to include an annuity charge sufficient in amount to rebuild the plant from time to time as needed.

Under the circumstances of this case we feel no need to order a refund of any part of the rates heretofore collected in order that justice may be done, and especially in view of the fact that it does not clearly appear from the evidence that the rate paid by complainants is unreasonable. That portion of the relief prayed for will, therefore, be denied.

ORDER.

Alex Cummings et al. having complained of discrimination in rates charged by defendant La Rica Water Company for service of irrigation water, and praying a refund of \$84.00, representing the excess in rates

paid by complainants over rates paid by defendant's stockholders, and that defendant be declared a public utility; and defendant having denied that it is a public utility in law or in fact, and a public hearing of said case having been held, and the matter having been submitted to the Commission for determination, it is hereby found and declared that defendant is a public utility.

It is hereby ordered that defendant La Rica Water Company eliminate the discrimination which now exists in its rates by reason of the fact that it charges a different rate to its patrons who are not stockholders from the rate charged to its stockholders.

It is further ordered that the refund prayed for be and it is hereby denied.

It is further ordered that this order shall take effect from the date hereof and that La Rica Water Company shall, within thirty days from date hereof, prepare and file schedule of rates to be charged by it for the service of water to its patrons.

Dated at San Francisco, California, this 7th day of February, 1916.

DECISION No. 3085.

IN THE MATTER OF THE APPLICATION OF BELL WATER COMPANY
FOR AN ORDER AUTHORIZING AN INCREASE IN THE RATES FOR
WATER FURNISHED IN BELL, LOS ANGELES COUNTY.

Application No. 1983.

Decided February 8, 1916.

Applicant, furnishing water for domestic and irrigation purposes in unincorporated territory in Los Angeles County, contends that its rates are unremunerative and applies for permission to increase its minimum from \$1.25 to \$1.50. After investigation into the value of this plant and a check of applicant's operating expenses and revenues it is held that the present rates are too low, but though an increase is justified, the small consumer should not be required to stand the entire burden thereof. The following schedule established which will provide increases in revenue approximating the amount applied for by applicant: Domestic service, minimum \$1.25 per month, entitling consumer to 500 cubic feet; next 1,500 cubic feet, 15 cents per 100; in excess of 1,000 cubic feet, 10 cents per 100; irrigation service, \$1.25 per hour for full discharge of pump from well No. 2. Such schedule to become effective within thirty days.

A. B. Shaub, for Applicant.

J. H. McEldowney, for Protestants.

REPORT OF THE COMMISSION.

This is an application on behalf of Bell Water Company for an order authorizing an increase in the rates of water furnished to the unincorporated district of Bell, Los Angeles County, from the minimum

of \$1.25 for 1,250 cubic feet or less per month to a minimum of \$1.50 per month for 1,250 cubic feet or less per month. The company charges five cents per 100 cubic feet in excess of the minimum.

A public hearing was held in Los Angeles on December 17, 1915, at which a large number of protestants appeared. At the close of the hearing the matter was submitted upon briefs to be filed by the applicant and the protestants. These briefs have now been filed and the matter is ready for decision.

From the evidence it appears that the Bell Water Company was organized by real estate promoters in 1902 for the purpose of furnishing water to the Bell tract, consisting of 350 acres, situated six or seven miles southeast of the center of Los Angeles and about one and one-half miles from the city limits.

The promoters were J. C. Bell, Susan A. Bell, F. R. Bear, M. E. Bear and A. E. Bell. At the time of the organization of the company they owned and turned over to the corporation the two wells now in use by the company and also the domestic pipe lines that were installed over the greater portion of the tract, in exchange for which they took a total of 700 shares of stock in the Bell Water Company of the par value of \$25.00 each. In selling off the land they gave each purchaser, free of extra cost, two shares of stock in the company for each acre purchased. Thus when the land was all sold the owners of the various parcels of land became the owners of the stock, and at the present time the said original promoters own no stock at all in the company.

Shortly after the community began to settle it was found that the service was poor, the pipes being too small and the pumping machinery being in bad order. Accordingly, it became necessary for the company to purchase new machinery and make other improvements. This necessitated the levying of assessments. Numerous stockholders failed to pay their assessments and at delinquent sales, there being no purchasers, their stock reverted to the company's treasury.

After having passed through a most troubled existence and after having levied assessments totaling \$38.00 per share upon stock whose par value was and is \$25.00 per share, the company now has but 423.26 shares of stock outstanding out of a total original issue of 1,000 shares, all but 12 of these outstanding shares being held by the company's consumers or by owners of land within the district served by the company and no one individual owning more than 24 shares.

As above stated, the company has two wells: the first, designated as No. 1, was equipped but found inadequate; the second, designated as No. 2, situated about half a mile south of No. 1, has, however, proved satisfactory.

A tract known as Laguna Bell tract, consisting of approximately 100 acres adjoining the Bell tract, was piped and put on the market by

the Laguna Land and Water Company in 1913. Having no water of its own, the latter company equipped the old well at plant No. 2 with an adequate motor and pump at an expense of \$1,267.00, upon an agreement that applicant would render the same service at the same rates to the residents of Laguna Bell tract as to the residents of the Bell tract, for a period of ten years, in consideration of which all pipes, motors, pumps and appurtenances were to be turned over to applicant, free of charge, at the end of that time. There are at present only ten residents in the Laguna Bell tract and the water does not circulate through the system, the result being that the water in this tract has a distinct odor and taste. Cross connections with the Bell pipe system would partially remedy this trouble, and we understand that the company intends to install these cross connections in the near future.

An examination was made of applicant's entire plant by Mr. H. F. Clark, assistant engineer in the hydraulic department of the Railroad Commission. He found the domestic system of the Bell Water Company to be composed of:

1-inch pipe	-----	1,100 lineal feet
1½-inch pipe	-----	2,700 lineal feet
2-inch pipe	-----	14,000 lineal feet
2½-inch pipe	-----	1,300 lineal feet
4-inch pipe	-----	4,850 lineal feet
6-inch pipe	-----	3,100 lineal feet
8-inch pipe	-----	3,200 lineal feet
Total -----		29,150 lineal feet

This does not include any of the pipe in the Laguna Bell tract or any of the irrigation pipe. All of the services are metered with the ordinary ½-inch meter. There are 215 meters installed but only 195 are at present producing revenue. These meters and the service connections were installed at the expense of the consumers.

The company stores the water for its domestic system in two tanks, one of 20,000 gallons and one of 60,000 gallons capacity. These tanks are at the same elevation and are connected by an eight-inch riveted steel pipe. The available pressure on the tract's higher elevations is twelve pounds under the best conditions and at the lower elevations it is correspondingly higher.

As may be seen from the foregoing figures the two-inch pipe predominates. The pipes are too small to provide for much future growth, but apparently there is no serious complaint as to pressure at present. Several dead ends exist, however, all of which should be connected in a circulating system.

The irrigation pipes are of considerably larger diameter than those used for the domestic service and have little pressure upon them, not exceeding seventeen pounds per square inch. The irrigation system consists of the following:

10-inch pipe	450 lineal feet
12-inch pipe	5,750 lineal feet
14-inch pipe	6,150 lineal feet
Total	12,350 lineal feet

There are forty-one outlets attached to these irrigation mains. As the mains in general are located beneath the sidewalk strip, some of the outlets interfere with pedestrian travel.

The irrigation water is sold at the rate of \$1.25 per hour for the full discharge of the pump. The flow of well No. 2, from which all the water is now pumped, is about 100 miner's inches, but the supply varies somewhat with the lift. From the evidence introduced at the hearing it appears that the actual cost to the company of running the pump without any charge for overhead expense, depreciation or interest, is approximately \$1.20 per hour and accordingly the price charged for water for irrigation purposes is unremunerative.

The pumping equipment installed by the Laguna Bell tract is now used by applicant to pump water for all its consumers, as water can be pumped more cheaply at plant No. 2 than at plant No. 1.

Mr. Clark's estimate of the original cost new of applicant's plant is as follows:

Item	Estimated cost new
Real estate at plant No. 1.....	\$500 00
Pump house at plant No. 1.....	83 00
Well at plant No. 1.....	2,243 00
Pumping equipment at plant No. 1.....	2,560 00
Tank and tower at plant No. 1.....	550 00
Tank and tower at plant No. 2.....	1,100 00
Well at plant No. 2, 1,350 feet deep.....	5,000 00
Distribution pipe lines.....	7,825 00
Miscellaneous equipment, tools, etc.....	315 00
Franchise cost to date.....	130 00
Total	\$20,306 00

No other engineer's appraisal was offered in evidence by either applicant or the protestants.

From this we find the estimated cost new of the above mentioned items of the water system to be \$20,306.00, irrespective of all portions of the water system used exclusively for irrigation purposes, the estimated cost of which latter we find to be \$10,437.00. We further find

the reasonable maintenance and operation expenses of the company for the year 1915 to have been approximately as follows:

Superintendent -----	\$605 00
Power -----	600 00
Oils -----	5 73
Repairs to pumping equipment -----	45 17
Repairs to pipe lines -----	191 75
Repairs to meters -----	9 60
Collecting -----	363 20
Secretary and bookkeeper's salary -----	170 00
Supplies and printing -----	113 34
Railroad Commission -----	6 15
Insurance -----	15 30
Taxes -----	204 66
Total -----	<u>\$2,419 90</u>

The water company's receipts for last year were approximately as follows:

From domestic service -----	\$3,129 44
From irrigation service -----	384 59
Paid by consumers for meters and service connections -----	167 78
Total -----	<u>\$3,681 81</u>

From the above statement it is evident that, deducting the sum received for meters and service connections, we have \$3,514.03 which represents the total revenue received for water furnished consumers. Deducting from this the operating expenses above set forth, we have left the sum of \$1,094.13 for interest and depreciation account. This amount would barely equal the annual depreciation charge for applicant's entire plant, to say nothing of any allowance for interest upon the investment. However, while applicant is voluntarily furnishing water for irrigation purposes at a rate which barely covers the actual operating cost of pumping, we should not impose a burden upon the rest of the system by requiring the domestic portion to pay the entire interest and depreciation charges upon the irrigation plant.

For the purposes of this application we shall, accordingly, consider only that portion of applicant's plant used and necessary for its domestic service, although we are by no means holding that each portion of applicant's plant must necessarily produce a proportionate share of the total profit.

From the evidence we figure that the actual operating cost of pumping for irrigation purposes during the year 1915 (including power, lubricants, labor, etc.) was \$369.00. In order to ascertain the operating expenses for the domestic service we shall deduct this amount from the total reasonable operating expenses for said year, which leaves a balance of \$2,050.90 as the reasonable operating expenses necessary for the domestic portion of applicant's plant. Deducting this from the revenue

received from applicant's domestic service we have a balance of \$1,078.54. From Mr. Clark's report we find that the sum of \$475.15 should be allowed each year for depreciation of the domestic service portion of the plant, figuring the depreciation upon the sinking fund basis. This leaves us a balance of \$603.39 per year representing approximately 3 per cent interest upon the domestic portion of applicant's plant under the present rates.

If the application is granted the water company will receive an increased revenue of \$3.00 a year from each of its 196 consumers (providing the number of its consumers remains the same), which will yield the company a total annual increase of \$588.00, allowing it to earn a total of approximately 5.9 per cent interest upon its investment.

Applicant has stated that it is the company's intention to buy all the meters and service connections that its customers have installed at their own expense and that if granted this increase it will buy all of such meters and service connections from its customers by crediting such of its customers as have installed such equipment the sum of 25 cents per month for thirty-six months.

Now, obviously, this Commission would not permit a public utility to charge rates high enough to enable it to buy meters and install service connections out of its earnings and at the same time make enough additional profits to pay its operating expenses, depreciation and a proper interest on its investment; but on the other hand the company will, if the proposed increase is granted, be earning less than 6 per cent interest per year upon its investment, and, accordingly, if it desires to devote part of this 6 per cent interest to buying meters or to any other capital investment rather than to declare the same in dividends, naturally this Commission will not prevent its doing so.

Protestants, both at the hearing and in their briefs, raised numerous objections to the proposed application, some of which were purely technical and some of which went to the merits of the application; but we find that none of these objections should prevent the granting of the application.

Protestants objected to the hearing of the application at all on the two following grounds, to wit:

“First. Rule X (of the Railroad Commission) required that ‘notice of the date and hour of the formal case shall be served at least ten days before the time set therefor.’ In this case the hearing was set for December 17th and the notices served on the 11th, which was Saturday.

Second. Rule VII requires ‘that in addition to complying with the provisions of Rule III applicant shall submit the following data:

3. A schedule of the present rates, and the increase which it desired to make.

4. A description of applicant's property together with an inventory or appraisal of the same, including a statement of the original cost of the property, and the cost thereof to applicant.
5. A statement in full of the reason why the increase is desired.' "

Protestants then state that the applicant in the present case failed to comply with each and every subdivision cited.

As to the first objection, protestants' attorney failed to distinguish between a "formal case" and an "application." If he had quoted the next sentence of Rule X, paragraph 2, his quotation would have concluded with the provision:

"that hearings upon formal applications shall be set as deemed necessary by the Commission."

The matter before us is an application, not a case.

As to the second point, the provisions set forth in Rule VII are made for the benefit of this Commission and not for the benefit of protestants, and moreover, as applicant has throughout shown an entire willingness to furnish both this Commission and the protestants any information asked for there is no question but what protestants' rights have been fully protected in this proceeding.

Protestants have furthermore taken exception in their briefs to several portions of Assistant Engineer Clark's report. We have examined this report in detail and have found the same to have been carefully compiled, and we find the valuation therein made to be conservative and if anything more favorable to the consumers than to the water company. Protestants were given ample opportunity not only to cross-examine Mr. Clark at the hearing, but they were, by express order of the Commission, given permission to have an engineer of their own, after examining the property, file his report which the Commission consented to receive in evidence and to give the same weight as if it had been filed at the hearing. Protestants have failed to file such a report and apparently have not had applicant's plant examined by an engineer, but have simply attacked Mr. Clark's report without properly understanding it.

Under all the conditions of this case we feel that applicant is entitled to at least as large an increase in its gross operating revenues as it would receive if its application were granted; but we are adverse to having any company, under similar conditions, increase its revenue simply by increasing its minimum charge. Applicant's revenue should be increased not by imposing a greater burden upon those who at present use far less than the minimum, but by requiring those who use the larger quantities of water to pay accordingly. After a careful examination of applicant's receipts for the last year, we believe that under the rates

authorized in the following order applicant's receipts for next year would be as large as they would have been if the application had been granted; the charges will also be made upon a much fairer basis, and the minimum will still be large enough to permit the smaller consumers to remain within it.

It should be noted that in this opinion we are not granting applicant any interest or depreciation allowance upon the following property :

The distributing system in the Laguna Bell tract.

The pumping equipment at plant No. 2.

The meters and service connections throughout applicant's entire system.

Applicant's irrigation mains, which total 12,350 feet.

ORDER.

Bell Water Company having applied to this Commission for an order authorizing an increase in rates for domestic water furnished by applicant to its consumers in the unincorporated district of Bell, and territory contiguous thereto in Los Angeles County, and a public hearing having been held, and evidence, both oral and written, having been introduced and the Commission being fully advised in the premises, we hereby find as a fact that the existing rates are noncompensatory and unreasonable, and that the rates hereinafter established are just and reasonable.

Basing our conclusions upon the foregoing findings of fact and upon the further findings of fact contained in the opinion which precedes this order,

It is hereby ordered that Bell Water Company be and it is hereby authorized within thirty days from the date of this order to publish and file with this Commission, and thereafter to charge and collect from its consumers the following rates:

For Domestic Service.

For the first 500 cubic feet or less, per month, a minimum of \$1.25 per month.

For all water used in excess of 500 and less than

1,000 cubic feet, in any month ----- 15 cents per 100 cubic feet

For all water used in excess of 1,000 cubic feet in

any month ----- 10 cents per 100 cubic feet

For Irrigation Purposes.

\$1.25 per hour for the full discharge of the pump now located at Well No. 2.

Dated at San Francisco, California, this 8th day of February, 1916.

Decision No. 3086, not printed; grade crossing. See end of volume.

DECISION No. 3087.

IN THE MATTER OF THE APPLICATION OF CONTRA COSTA GAS COMPANY FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF SUCH PORTION OF THE RIGHTS AND PRIVILEGES GRANTED TO S. WALDO COLEMAN BY ORDINANCE NO. 130 OF THE COUNTY OF CONTRA COSTA, ADOPTED SEPTEMBER 2, 1913, AS ARE NECESSARY TO ENABLE THE CONSTRUCTION OF A GAS SYSTEM FOR THE DISTRIBUTION AND SALE OF GAS IN CERTAIN PORTIONS OF CONTRA COSTA COUNTY.

Application No. 2064.

Decided February 8, 1916.

Applicant, at present operating a gas generating and distributing system in the towns of Martinez and Pittsburg in the county of Contra Costa, applies for a certificate declaring that public convenience and necessity require the exercise of rights granted under a franchise authorizing the construction of distributing lines to the unincorporated towns of Port Costa, Crockett, Crotona and Valona, Contra Costa County. Application granted, provided that applicant shall not hereafter claim a value for such franchise other than the actual cost thereof.

S. Waldo Coleman, for Applicant.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

This is an application under the provisions of section 50 of the Public Utilities Act for a certificate that the present and future public convenience and necessity require the construction of a gas system for the distribution of gas in the "general territory commencing with the westerly boundary line of the town of Martinez, thence westerly through the unincorporated place known as Port Costa, thence westerly to and including the unincorporated places known as Crockett, Crotona and Valona," all in Contra Costa County.

Applicant reports that at the present time no plant, system, corporation, firm or person is supplying or conveying gas to the inhabitants of that part of Contra Costa County above mentioned. No protests against the proposed extensions of Contra Costa Gas Company have been filed in connection with the application herein.

Contra Costa Gas Company was organized April 24, 1914, with an authorized capital stock of \$250,000.00, divided into 2,500 shares of the par value of \$100.00 each. Pursuant to Decision No. 1878, dated October 15, 1914 (Volume 5, Opinions and Orders of the Railroad Commission of California, page 594), S. Waldo Coleman sold to Contra Costa Gas Company among others a franchise (Ordinance No. 130) which he had acquired from the board of supervisors of Contra Costa

County. This franchise permits the grantee, his successors and assigns to lay down, construct, maintain and operate a system for the manufacture and distribution of gas and all gas pipes, conduits, fixtures, appurtenances and appliances as may be convenient and proper for the manufacture and distribution of gas, and the maintenance and operation of such system through, under, along and across all the roads, highways, public ways, streets, lanes and public grounds and places outside of incorporated territory in said county.

This Commission by Decision No. 1200, dated January 15, 1914 (Volume 4, Opinions and Orders of the Railroad Commission of California, page 27), authorized S. Waldo Coleman, his successors and assigns, to exercise such portion of the rights and privileges granted to him by said Ordinance No. 130 of the county of Contra Costa, adopted September 2, 1913, as are necessary to enable the construction of a gas plant and system for the manufacture and distribution of gas in the general territory commencing with Martinez on the west, thence southeasterly to Pacheco and Concord, thence northeasterly and easterly to Pittsburg and Antioch, including the territory adjacent to said towns of Martinez, Pacheco, Concord, Pittsburg and Antioch.

By the aforesaid Decision No. 1878, dated October 15, 1914, this Commission authorized applicant herein to issue \$61,150.00 par value of stock at not less than \$80.00 per share and \$109,000.00 face value of 6 per cent bonds at not less than 90 per cent of the face value and accrued interest. All of the stock and bonds have been issued. Applicant reports that it has expended the proceeds from the sale of its stocks and bonds to construct a gas generating plant and a transmission and distribution system.

Its gas generating plant is located just outside the city limits of Pittsburg, Contra Costa County. Originally, applicant planned to erect a generating plant having a capacity of 360,000 cubic feet per day and a storage holder with a capacity of 36,000 cubic feet. It now reports that it has erected a storage holder having a capacity of 75,000 cubic feet and a generating plant with a capacity of 400,000 cubic feet per day. Transmission lines have been constructed from the generating plant to Pittsburg, Antioch, Concord and Martinez. In each of the cities or towns distribution systems have been installed.

Applicant began to operate its plant March 15, 1915, at which time it had 15 consumers. On January 1, 1916, applicant reports that it had 1,092 consumers. The daily output at present is reported as being approximately 110,000 cubic feet.

Contra Costa Gas Company reports operating revenues and expenses from March 15, 1915, to December 31, 1915, as follows:

<i>Operating Revenue.</i>	
Gas, Pittsburg district.....	\$9,341 75
Gas, Martinez district.....	3,347 95
	<hr/>
Sundry sales, net.....	3,347 16
	<hr/>
Total operating revenue	\$16,036 86
<i>Operating Expenses.</i>	
Commercial expenses	\$2,467 61
Miscellaneous expenses	164 07
Production operation	4,294 94
Distribution operation	581 03
Transmission operation	564 21
Production repairs	157 43
Transmission repairs	45 13
Distribution repairs	101 97
Taxes	666 21
Insurance	132 25
General office supplies and expenses.....	73 71
General officers' salaries.....	75 00
Amortization of bad debts	126 90
	<hr/>
Total operating expenses	9,450 46
	<hr/>
Net operating revenue	\$6,586 40
Bond interest	817 50
	<hr/>
Corporate surplus	\$5,768 90

Applicant reports that up to September 30, 1915, all bond interest was charged to construction. From October 1, 1915, to December 31, 1915, one-half of the bond interest was charged to construction and one-half to operating expenses. Since January 1, 1916, all bond interest is being charged to operating expenses.

Contra Costa Gas Company reports as of December 31, 1915, assets and liabilities as follows:

<i>Assets.</i>	
Intangible capital	\$1,700 00
Tangible capital:	
Landed capital	\$1,554 14
Production capital	37,705 90
Transmission capital	30,926 32
Distributing capital	57,086 47
General capital	32,934 44
	<hr/>
Total tangible capital	160,207 27
Current assets:	
Cash	1,218 74
Accounts receivable	8,495 52
Materials and supplies.....	13,019 41
	<hr/>
Total current assets	22,733 67

Prepaid expenses -----	\$54 66
Deferred assets:	
Special deposit city of Pittsburg -----	500 00
Stock discount unamortized -----	12,879 50
Bond discount and expense unamortized -----	11,291 33

Total deferred assets -----	24,670 83

Total assets -----	\$209,375 43

Liabilities.

Common capital stock:	
Authorized -----	\$250,000 00
Less unissued -----	188,850 00

Stock outstanding -----	\$61,150 00
Bonds:	
Authorized -----	500,000 00
Less unissued -----	391,000 00

Bonds outstanding -----	109,000 00
Current liabilities:	
Notes payable -----	20,316 24
Accounts payable -----	8,358 73
Unpaid wages -----	1,098 23
Consumers' deposits -----	70 00

Total current liabilities -----	29,843 20
Accrued liabilities not yet due:	
Bond interest -----	1,635 00
Other interest -----	117 06
Taxes -----	666 21
Insurances -----	1,068 16

Total accruals -----	3,486 43
Reserve for accrued bad debts -----	126 90
Corporate surplus unappropriated -----	5,768 90

Total liabilities -----	\$209,375 43

General capital (\$32,934.44), as shown on preceding page, includes \$13,884.51 said to represent development expenses, \$7,256.19 for engineering and superintendence, \$2,756.56 for interest and \$2,340.34 for insurance.

Applicant now proposes to install a 3-inch transmission line extending from Martinez to Crockett, a distance of approximately seven miles. Distribution systems are to be installed at Port Costa, Crockett, Crolona and Valona. The cost of extension, applicant estimates at \$35,000.00. The funds necessary to pay for the extension will be secured through the issue of short term notes, the payment of which will be guaranteed by S. Waldo Coleman, president and general manager of Contra Costa Gas Company. The president of the company estimates that by means

of this extension 400 additional consumers can be obtained. The additional consumers will not necessitate an enlargement of the generating plant.

In view of the facts submitted by applicant, I recommend that this application be granted subject to the conditions found in the order herein.

ORDER.

Contra Costa Gas Company have applied to the Railroad Commission for a certificate declaring that present and future public convenience and necessity require and will require the construction of a gas transmission and distribution system, as hereinafter described, and also the exercise of a portion of the rights and privileges granted to applicant by Ordinance No. 130 of the county of Contra Costa, adopted September 2, 1913, and a public hearing having been held upon said application and the Railroad Commission finding that a certificate should be granted, as hereinafter set forth,

The Railroad Commission of California hereby declares that public convenience and necessity require the exercise by Contra Costa Gas Company of such portion of the rights and privileges conferred by Ordinance No. 130 of the county of Contra Costa, adopted September 2, 1913, as are necessary to enable the construction of a gas transmission line and distribution system for the distribution of gas in the "general territory commencing with the westerly boundary line of the town of Martinez, thence westerly through the unincorporated place known as Port Costa, thence Westerly to and including the unincorporated places known as Crockett, Crotona and Valona," all in Contra Costa County, provided that Contra Costa Gas Company shall first have filed with the Railroad Commission a stipulation duly authorized by its board of directors, declaring that Contra Costa Gas Company, its successors and assigns, will never claim before the Railroad Commission or any court or other public body, a value for said rights and privileges granted by said Ordinance No. 130 in excess of the actual cost to Contra Costa Gas Company to acquire the said rights and privileges, which cost is represented by Contra Costa Gas Company to have been \$299.45, and shall have received from the Railroad Commission a supplemental order declaring that such stipulation, in form satisfactory to the Railroad Commission, has been filed with the Railroad Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of February, 1916.

Decision No. 3088, grade crossing; not printed. See end of volume.

DECISION No. 3089.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN SIERRAS POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF APPLICANT'S FIRST MORTGAGE BONDS TO THE AMOUNT OF FIVE HUNDRED THOUSAND DOLLARS.

Application No. 1391.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN SIERRAS POWER COMPANY FOR AN ORDER AUTHORIZING IT TO EXECUTE A FIRST AND REFUNDING MORTGAGE AND FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF FIRST AND REFUNDING MORTGAGE BONDS.

Application No. 1436.

Decided February 10, 1916.

Applicant was heretofore authorized to issue \$150,000.00 face value first mortgage bonds and subsequently applied for and was granted permission to issue \$150,000.00 face value first and refunding bonds in lieu thereof. It now applies for permission to issue and sell whichever of the two authorizations might appear to be most beneficial to the company. Application granted, provided that the total amount of bonds issued of either authorization shall not exceed an aggregate face value of \$150,000.00.

REPORT OF THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas this Commission by Decision No. 2175, dated February 27, 1915, as amended (Vol. 6, Opinions and Orders of the Railroad Commission of California, page 217), authorized The Southern Sierras Power Company to issue \$300,000.00 face value of 6 per cent first mortgage bonds; and

Whereas applicant on August 27, 1915, reported that of said \$300,000.00 face value of bonds, it had issued and sold bonds in the sum of \$150,000.00; and

Whereas by Decision No. 2667, dated August 4, 1915, this Commission authorized applicant herein to pledge \$75,000.00 face value of first mortgage bonds, the issue of which was authorized by Decision No. 2175, dated February 27, 1915, as amended, to secure the payment of notes in the sum of \$75,000.00; and

Whereas in a supplemental application filed August 27, 1915, applicant herein asked authority to issue and sell \$150,000.00 face value of first and refunding 6 per cent 50-year bonds in lieu of \$150,000.00 face value of first mortgage bonds, the issue of which was authorized by said Decision No. 2175, dated February 27, 1915, as amended, but which had not been sold; and

Whereas this Commission by Decision No. 2775, dated September 23, 1915, duly authorized applicant herein to issue and sell \$150,000.00 face value of first and refunding bonds in lieu of the aforesaid \$150,000.00 of first mortgage bonds; and

Whereas applicant now requests an order authorizing it to issue and sell at its option either \$150,000.00 face value of first and refunding bonds or \$150,000.00 face value of first mortgage bonds; and good cause appearing,

It is hereby ordered that The Southern Sierras Power Company be given authority and it is hereby given authority to issue \$150,000.00 face value of first mortgage 6 per cent 25-year bonds.

The authority herein granted is granted upon the following conditions and not otherwise:

1. The authority herein granted to issue \$150,000.00 face value of first mortgage bonds is an authority alternative to the authority heretofore granted by Decision No. 2775, dated September 23, 1915, to issue \$150,000.00 face value of first and refunding mortgage bonds.

2. Should applicant avail itself of the authority to issue \$150,000.00 face value of first and refunding mortgage bonds, or any part thereof, the issue of which was authorized by Decision No. 2775, dated September 23, 1915, the amount of bonds which may be issued under the authority herein granted shall be reduced by such an amount as may be equal to the amount of first and refunding mortgage bonds issued under said Decision No. 2775, dated September 23, 1915.

3. Should applicant avail itself of the authority herein granted and issue \$150,000.00 face value of first mortgage bonds, or any part thereof, the amount of first and refunding mortgage bonds which applicant may issue by virtue of the authority granted by Decision No. 2775, dated September 23, 1915, shall be reduced by such an amount as may be equal to the amount of first mortgage bonds issued under the authority herein granted.

4. The \$150,000.00 face value of bonds herein authorized to be issued includes the \$75,000.00 of bonds authorized to be pledged in pursuance of Decision No. 2667, dated August 4, 1915.

5. The proceeds obtained from the issue of bonds herein authorized shall be used only for the purposes set forth in Decision No. 2175, dated February 27, 1915, as amended, and in Decision No. 2592, dated July 13, 1915, as amended.

6. Decision No. 2175, dated February 27, 1915, as amended, and Decision No. 2592, dated July 13, 1915, as amended, shall remain in full force and effect, except as modified by this second supplemental order in the above entitled proceedings.

Dated at San Francisco, California, this 10th day of February, 1916.

DECISION No. 3090.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SAN DIEGO BEACH RAILWAY COMPANY FOR AUTHORITY TO ISSUE EIGHT HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS OF BONDS.

Application No. 1240.

Decided February 11, 1916.

REPORT OF THE COMMISSION.

FIFTH SUPPLEMENTAL ORDER.

Whereas this Commission in its Decision No. 1962 (Vol. 5, Opinions and Orders of the Railroad Commission of the State of California, page 761), and in certain orders issued supplemental thereto, authorized Los Angeles and San Diego Beach Railway Company to issue \$375,000.00 of its first mortgage 5½ per cent sinking fund gold bonds; and

Whereas said order further provides that applicant might pledge said bonds or any part thereof in such amounts and at such ratios as shall thereafter be authorized by this Commission; and

Whereas applicant has now applied to this Commission for authority to pledge its first mortgage 5½ per cent sinking fund gold bonds, at a ratio of \$100.00 of bonds for each \$70.00 of indebtedness, to be used as collateral security for two notes in the total principal sum of \$10,000.00, the proceeds of which are to be used for the rehabilitation of applicant's lines and structures, as provided in said Decision No. 1962; and it appearing to this Commission that applicant's request is reasonable and should be granted, and that the purposes for which it is proposed to issue said bonds are not reasonably chargeable in whole or in part to operating expenses or to income,

It is hereby ordered that Los Angeles and San Diego Beach Railway Company be and it is hereby authorized to pledge its first mortgage 5½ per cent sinking fund gold bonds, at a ratio of not to exceed \$100.00 of bonds for each \$70.00 of notes, as collateral security for a six-months' note to Southern Trust and Savings Bank of San Diego in the principal sum of \$5,000.00, and bearing interest at not to exceed 7 per cent per annum, and as collateral security for a six-months' note to American National Bank of San Diego in the principal sum of \$5,000.00 and bearing interest at not to exceed 7 per cent per annum.

The authority herein granted is granted upon the following conditions and not otherwise:

1. When the above mentioned notes to Southern Trust and Savings Bank of San Diego and American National Bank of San Diego have

been paid or otherwise discharged, the bonds herein authorized to be pledged shall be returned to applicant's treasury and not thereafter issued without the approval of this Commission.

2. The authority herein granted shall apply only to such bonds as shall have been issued or pledged on or before June 30, 1916.

3. Applicant shall report to this Commission within thirty days after the pledge of any bonds under the authority herein granted, stating the number of bonds pledged, the terms of said pledge, the terms of the notes secured by said bonds and the purposes for which the proceeds from said notes were used.

Dated at San Francisco, California, this 11th day of February, 1916.

Decision No. 3091, grade crossing; not printed. See end of volume.

DECISION No. 3092.

IN THE MATTER OF THE APPLICATION OF THE CITY OF LONG BEACH TO THE RAILROAD COMMISSION TO ASSUME JURISDICTION OVER THE JOINT CONSTRUCTION AND USE OF CONDUITS IN SAID CITY.

Application No. 1708.

Decided February 14, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The city of Long Beach having applied to this Commission for a ruling as to the jurisdiction of the Commission to compel public utilities at Long Beach to make joint use of underground conduits, and it appearing to the Commission that under the authority of *Holabird vs. Railroad Commission*, decided by the Supreme Court on January 17, 1916, and reported in Vol. 51, California Decisions, page 52, that this is not properly the subject of a formal application, and should be determined either informally or in a formal proceeding initiated by a complaint asking for some definite relief,

It is hereby ordered that this application be and the same is hereby dismissed.

Dated at San Francisco, California, this 14th day of February, 1916.

DECISION No. 3093.

MRS. ELIZABETH BASLER ET AL.

vs.

SOUTHERN CALIFORNIA EDISON COMPANY.

Case No. 699.

Decided February 11, 1916.

Complainants attack the rates and rules of defendant serving gas in what is known as the Santa Monica Bay district, particularly the minimum charge of \$1.00 per month, defendant's requirement of a deposit and its refusal to make extensions.

Held, a check of defendant's operating revenues and expenses shows that under its present schedule of \$1.00 per 1,000 cubic feet it is only receiving a revenue providing a small return upon the capital invested, also as it has voluntarily reduced the minimum rate from \$1.00 to 50 cents per month, and the matter of deposits and extensions having been handled in connection with a previous decision of the Commission, complaint dismissed.

J. C. Steel, for Complainants.

H. H. Trowbridge and *H. J. Bauer*, for Defendant.

REPORT OF THE COMMISSION.

This is the complaint of Mrs. Elizabeth A. Basler and thirty-five other residents of the city of Santa Monica against the Southern California Edison Company, alleging in effect that the rates for gas charged by defendant in the city of Santa Monica are unreasonable and unjust; that the minimum charge of \$1.00 per meter per month is excessive; that defendant has refused to make extensions at request of applicants, and that the requirement of the deposit by defendant is unjust and unreasonable.

In its answer defendant denies that the rates which it charges for gas in Santa Monica are excessive or unreasonable and alleges that they do not offer defendant a reasonable return; denies that the minimum is excessive and that it refuses to make all reasonable extensions. Defendant admits that it requires a deposit but denies that the deposit is unjust and requests that the complaint be dismissed.

At the hearing in this case, held at Santa Monica, on August 27, 1915, the complainants withdrew their complaint against the defendant in so far as it was directed towards the question of extensions and deposits, these points having been covered by the Commission's order in Case No. 683, and further as the company had reduced the minimum to 50 cents per meter per month, the complaint against that charge was also withdrawn, leaving the only question, that of the reasonableness of the rates charged, to be determined.

The present rate charged by defendant in Santa Monica is \$1.00 per 1,000 cubic feet for all consumption, with a monthly minimum charge of fifty cents per month.

The Southern California Edison Company, which operates an extensive electric transmission and distribution system in Southern California, also operates a gas production and distribution system in a territory known as the Santa Monica Bay district, which includes the cities of Santa Monica, Venice and Sawtelle and the unincorporated territory adjacent thereto. The system consists of a gas generating plant located in Venice, which is at present operated as a stand-by plant, a transmission line connecting the gas plant with the terminals of the Southern California Gas Company's transmission line at Sawtelle, where gas is purchased from that company, and a medium high pressure distribution system serving the territory mentioned. The three towns and adjacent territory are supplied with both gas and electricity by the Southern California Edison Company, which entire territory has been divided into two operating districts, called the Venice and Santa Monica districts.

Prior to the hearing both the company and the Commission's engineering department made a careful investigation of the properties used by the defendant in the gas business in the Santa Monica Bay district, and reports on their findings as to the estimated historical reproduction cost of the physical property and rate of depreciation to be allowed were submitted at the hearing, as was evidence showing the operating expenses and statistics for the district in question during the past three years, as well as an estimate of revenue and expense for 1915.

From an analysis of the testimony it appears that there is only a slight difference in the two valuations submitted, the company's being slightly over 3 per cent in excess of that determined by the Commission's experts.

At the present time the defendant is purchasing a mixed natural and artificial gas from the Southern California Gas Company, and is only operating its generating plant at Venice as a stand-by to insure service. The gas purchased is approximately 740 B. t. u. per cubic foot heat content. The price which the company is charged for this gas is 37½ cents per thousand, delivered at Sawtelle. The defendant is not, however, paying this amount, contending that the price should not exceed 35 cents per thousand. The amount paid has been approximately 31 cents.

Prior to the time that the defendant commenced purchasing gas, it operated its Venice gas plant and supplied artificial gas of approximately 615 B. t. u. per cubic foot heat content.

The complainants raised the point that the gas generating plant of defendant should be considered as abandoned property and not included in determining the rate to be charged for gas. It appears, however,

that interruptions of gas supply have resulted in the past and may occur in the future as the supply is largely dependent upon the natural gas delivered from the Midway gas field through a long transmission line. As it also appears that the holders, boilers and compressors located at Venice are necessary even if the generators are not, and there would therefore be a reduction in the cost of gas of only about 2.4 cents per thousand cubic feet sold or a change in the net return computed of 4 per cent, if these unnecessary items were excluded. Considering this fact, as well as the possibility of failure of natural gas supply, it appears only reasonable to include the generating plant as part of the operative property.

From the evidence submitted, both as regards cost of property and the revenue and expense, it appears that the rates of the defendant company for gas in Santa Monica City do not result in an excessive return upon the investment as shown by the following summary of revenue from the city of Santa Monica and the expense chargeable to that city.

<i>Estimate of Sales, Revenue and Expense, City of Santa Monica, Year 1915.</i>		
Estimated sales (cubic feet) -----		96,505,900
Estimated revenue -----		\$97,506 97
Production expense -----	\$41,774 47	
Distribution expense -----	13,406 87	
Commercial expense -----	6,894 00	
General expense pro rata -----	7,730 00	
Taxes -----	4,447 00	
Uncollectible accounts -----	488 00	
<hr/>		
Total expense -----	74,740 34	
Net revenue for depreciation and interest -----		22,766 63
Investment pro rata chargeable to Santa Monica, including material and supplies -----		341,519 00
Average return for interest and depreciation (per cent) -----		6 66

In the above estimate the cost of gas to the defendant company has been estimated as 35 cents per thousand purchased. If the company obtains a rate of 31 cents as now paid the return will be increased approximately 1 per cent. However, if the company has to pay 37½ cents for gas, the return estimated above will be reduced.

It appears from the above, therefore, that the rates charged do not yield the company a return which can be considered excessive. This is partially due, no doubt, to the fact that Santa Monica, as well as Venice and the adjacent territory, is largely a summer resort town and the result of this is that the company has a large number of short period consumers, and during a large part of the year a considerable number of inactive meters and services, which has resulted in a relatively larger investment per active consumer than would result where a more stable population exists, also a larger expense for operation due to the fact

that more labor is required to care for the continuously changing consumers. This condition is strikingly shown by the records of the company, where it appears that in July, 1915, there were 4,551 active meters in the district, of which 179 were used by two consumers during the month, and six by three consumers, at the same time there were 680 inactive meters. In November, there were only 3,588 active meters, 107 of which were used by two consumers and one by three consumers during the month, and at the same time there were 1,202 inactive meters. It therefore appears that during the year not only are there a large number of meters continually changing, but also the number of active meters varies from about 3,600 to 4,550.

Considering all the facts in this case, it appears that the complainants have no just complaint, and that the case should, therefore, be dismissed.

ORDER.

A public hearing having been held in the above entitled proceeding, and said proceeding having been submitted and the case now being ready for decision, and it appearing that the rates charged by the Southern California Edison Company for gas supplied to the city and residents of Santa Monica are not excessive,

It is hereby ordered that the said complaint be and the same is hereby dismissed.

Dated at San Francisco, California, this 14th day of February, 1916.

DECISION No. 3094.

IN THE MATTER OF THE APPLICATION OF ONTARIO-UPLAND GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF STOCK AND BONDS AND THE EXECUTION OF A MORTGAGE SECURING SAID BONDS.

Application No. 2027.

Decided February 14, 1916.

Applicant applies for permission to issue \$11,005.00 par value of stock, \$75,000.00 face value of bonds and for permission to execute a deed of trust securing an authorized bond issue of \$100,000.00. Application for permission to issue stock being subsequently withdrawn, such portion of the application is dismissed without prejudice, and its deed of trust not being in proper form it is directed to file a revised copy to be approved by supplemental order; and it also appearing that the total amount of bonds applied for are not necessary at the present time, applicant authorized to issue \$60,000.00 face value, 20-year 6 per cent

bonds, to be sold at not less than 90, proceeds to be used, \$25,000.00 for refunding present outstanding bonds, \$25,672.57 to discharge note indebtedness, the balance for additions and betterments.

Leroy M. Edwards, for Applicant.

REPORT OF THE COMMISSION.

This is an application on behalf of Ontario-Upland Gas Company hereinafter designated and referred to as the gas company, for authority to issue \$11,005.00 par value of capital stock at not less than 75 cents per share, to execute a mortgage or deed of trust securing a bonded indebtedness of \$100,000.00, and to issue and sell \$75,000.00 face value of said bonds at the best price obtainable. Applicant desires to use the proceeds from the sale of these stocks and bonds for additions and betterments, for refunding outstanding bonds and notes, and for reimbursing its treasury for moneys expended from income, as hereinafter more particularly set forth.

Applicant, as its name implies, is engaged in the business of furnishing gas to the inhabitants of Ontario and Upland, San Bernardino County. The gas company was incorporated under the laws of the State of California in March, 1909, and began operation in Ontario in July of that year and in Upland a few months later. Its articles of incorporation provide for a total capital stock of \$100,000.00 par value, consisting of 100,000 shares of common stock of the par value of \$1.00 each. The company has no preferred stock. At the present time 88,995 shares are issued and outstanding. This stock was issued under the following conditions:

5 shares allotted to the company's incorporators at \$1.00 per share -----	\$5 00
21,524 shares purchased by subscribers at 50 cents per share ----	10,762 00
42,466 shares allotted to J. R. Anderson, the promoter of the company, on a basis of 50 cents per share for supplying and erecting the original plant and laying street mains --	21,233 00
25,000 shares allotted as fully paid to J. R. Anderson, evidently for promotion services.	
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88,995 shares issued in return for which the gas company received	\$32,000 00

The difference between the cash or other tangible consideration received and the par value of the stock issued, amounting to \$56,995.00, is carried on the gas company's books under the head of "Gas Franchises."

The company has paid dividends during the last six years as follows:

1910-----	4 per cent (\$3,559.64) on \$88,995.00 capital stock
1911-----	4 per cent (\$3,559.62) on \$88,995.00 capital stock
1912-----	4 per cent (\$3,559.68) on \$88,995.00 capital stock
1913-----	5 per cent (\$4,449.65) on \$88,995.00 capital stock
1914-----	4 per cent (\$3,559.64) on \$88,995.00 capital stock
1915-----	5 per cent (\$4,449.65) on \$88,995.00 capital stock

The gas company has no preferred stock, but it has an outstanding bond issue of \$25,000.00 face value of first mortgage 7 per cent bonds dated June 1, 1909, and maturing June 1, 1921. These bonds are secured by a deed of trust to Merchants Bank and Trust Company of Los Angeles, covering all of applicant's property and are redeemable at 105. The deed of trust contains no provision for a sinking fund and no such fund has been created by the gas company.

When these bonds were issued the entire amount was allotted to J. R. Anderson in part payment for supplying and erecting the gas plant in the city of Ontario and laying street mains in Ontario and Upland. The company has at the present time the following outstanding notes:

Payee	Date	Term	Interest	Principal
Western Boiler and Steel Company----	12/ 7/15	3 months	7	\$10,000 00
Western Boiler and Steel Company----	12/ 7/15	6 months	7	10,000 00
Western Boiler and Steel Company----	12/ 7/15	9 months	7	5,122 57
Bent & Pennebaker-----	12/ 7/15	6 months	7	550 00
Total -----				\$25,672 57

The notes to Western Boiler and Steel Company were given in payment for additions made to the gas company's plant since July 1, 1915, and the note to Bent & Pennebaker was given in payment for road construction work. Applicant is also under a contract to pay the Western Boiler and Steel Company for certain extensions and betterments to its system which are now under course of construction and which the gas company estimates will cost \$680.00.

The company has reported earnings for the years ending December 31, 1912, 1913, 1914 and 1915, as follows:

Item	1912	1913	1914	1915
Operating revenues	\$26,676 90	\$26,338 73	\$27,313 03	\$31,044 02
Operating expenses	17,809 99	21,338 51	19,787 74	20,639 89
Net operating revenue.....	\$8,866 91	\$5,000 22	\$7,525 29	\$10,404 13
Nonoperating revenue		207 29	197 18	196 15
Gross corporate income.....	\$8,866 91	\$5,207 51	\$7,722 47	\$10,600 28
Deductions—				
Bond interest	\$1,744 93	\$1,750 00	\$1,750 00	\$1,750 00
Miscellaneous deductions		815 36	67 38	156 33
Total deductions	\$1,744 93	\$2,565 36	\$1,817 38	\$1,906 33
Amount carried to corporate surplus account	\$7,121 98	\$2,642 15	\$5,905 09	\$8,693 95
Corporate surplus account—				
Surplus at beginning of year.....	*\$194 07	\$5,084 44	\$3,276 15	\$5,606 25
Additions for year:				
Profit from income account.....	\$7,121 98	\$2,642 15	\$5,905 09	\$8,693 95
Miscellaneous additions	2,178 03	14 52	84 60	467 53
Total additions	\$9,300 01	\$2,656 67	\$5,989 69	\$9,161 48
Total additions, plus surplus.	\$9,105 94	\$7,741 11	\$9,265 84	\$14,767 73
Deductions for year:				
Dividends	\$3,559 68	\$4,419 65	\$3,559 64	\$4,449 60
Miscellaneous deductions	461 82	15 31	99 95	57 88
Total deductions	\$4,021 50	\$4,464 96	\$3,659 59	\$4,507 48
Surplus at close of year.....	\$5,084 44	\$3,276 15	\$5,606 25	\$10,260 25

*Deficit.

The company submitted a statement of its assets and liabilities as of December 31, 1915, as follows:

Assets.

1. Fixed capital installed prior to January 1, 1913 (Schedule A-1)	\$113,151 28
2. Fixed capital installed since December 31, 1912 (Schedule A-2)	40,315 70
3. Cash and deposits.	
A. Cash	\$2,783 61
B. Term deposit in safety bank and imprest fund	3,371 70
5. Accounts receivable.	
B. Due from consumers	2,987 49
C. Miscellaneous accounts received	2,129 18
9. Materials and supplies	5,116 67
12. Treasury securities—stock	2,537 45
13. Prepaid insurance	11,005 00
15. Other suspense	17 22
	553 59
	\$178,852 22

Liabilities.

18. Capital stock -----		\$100,000 00
20. Funded debt -----		25,000 00
23. Notes payable (Schedule A-3) -----		25,672 57
24. Accounts payable.		
B. Audited vouchers and wages unpaid -----	\$1,193 59	
C. Consumers' deposits -----	369 50	
D. Miscellaneous accounts payable -----	836 76	2,399 85
25. Interest accrued -----		145 83
26. Taxes accrued.		
A. Taxes accrued regular -----	\$697 88	
B. Ontario franchise tax accrued -----	768 76	
C. Upland franchise tax accrued -----	238 57	1,705 21
29. Reserve for accrued depreciation -----		13,668 51
36. Corporate surplus unappropriated -----		10,260 25
		<hr/>
		\$178,852 22

Applicant operates in Ontario under a franchise granted by the city in March, 1909, for a term of fifty years, and in Upland under a franchise granted in July of the same year for a like period. No evidence as to the actual cost of these franchises was submitted.

In Decision No. 1189, reported in Volume 4, Opinions and Orders of the Railroad Commission of California, page 1, the Commission's engineering department estimated the reproduction cost of the gas company's plant at \$64,931.00, and the depreciated value as of December, 1913, at \$54,772.00. As pointed out in that opinion, however, the gas company was probably entitled to an additional valuation of from \$1,500.00 to \$2,000.00 owing to certain adjustments.

From the evidence it appears that applicant has made the following additions to its plant during the period from September 30, 1913, to July 1, 1915, at the cost given in the accompanying table:

Gas plant buildings and general structures -----	\$876 14
Purification apparatus -----	1,796 17
Accessory equipment at works -----	417 63
Distribution mains -----	2,633 44
Gas services -----	429 41
Meters -----	2,116 41
Gas regulators -----	7 00
Commercial arc lamps -----	8 08
Miscellaneous distribution equipment -----	784 42
Garage, pipe fitting room and shed -----	255 79
Office equipment -----	333 30
	<hr/>
Total -----	\$9,657 79

Between July 1 and November 30, 1915, applicant has made the following physical additions to its plant under construction contracts

with Western Boiler and Steel Company of Los Angeles at the following costs:

Distribution mains	\$6,362 75
50,000 cubic foot gas holder, including foundation	8,235 00
Gas generators	6,733 73
Purification apparatus	673 89
Foundation for generators and purification apparatus	175 00
Yard piping	1,074 55
New generator building	1,387 77
Spray water cooler	122 47
Boiler stack and freight	64 90
Miscellaneous work	319 51
Gas company's supervision, maps and details	374 85
Total to November 30, 1915	<u>\$25,524 42</u>

Applicant also submitted an itemized statement of the cost of the work now contracted for and in process of completion at \$780.00, and the cost of new road work connecting applicant's plant which was done by contract with Bent & Pennebaker, \$550.00. Total, \$26,845.42.

Applicant further submitted an itemized statement of its tangible capital which had been retired during the respective periods above mentioned, amounting to the total for the entire time from September 30, 1913, to date of \$8,663.73.

Beginning with the estimate of the Commission's engineers, referred to in Decision No. 1189, and making the adjustments for additions and betterments to applicant's plant and for retirements therefrom, and allowing also for certain minor elements, it would appear that the present value of applicant's physical property may be considered as amounting to from \$85,000.00 to \$90,000.00. As against this estimated value applicant has outstanding:

Bonds	\$25,000 00
Notes	25,672 57
Contingent liability for additions and betterments now under construction	680 00
Capital stock	<u>88,995 00</u>
Total	<u>\$140,347 57</u>

Although applicant originally asked for authority to issue \$11,005.00 par value of common stock, it later requested that this portion of its application be held in abeyance. For that reason it will not be necessary to pass, at this time, upon the advisability of issuing such stock, but we desire to draw the applicant's attention to the necessity, on the basis of the foregoing financial summary, of certain alterations in its general plan before such stock may be authorized. The attention of the applicant is especially directed to the rulings of this Commission wherein it has been held that stock should be authorized on a more satisfactory basis of assets than is here reflected.

The Commission has, however, found the estimates submitted by applicant as to the cost of its additions and betterments to have been decidedly moderate, and applicant appears to be conducting its business in an efficient and economical manner, and we believe that applicant may well be authorized to issue a sufficient number of bonds to care for its obligations as presented. This authorization will be given on the condition that the company shall buy in its outstanding bonds at not more than their par value instead of paying the redemption premium of 5 per cent, which would cost this company a total of \$1,250.00. If the present holders wish to continue as bondholders of this company they will be able to buy the new bonds at 90 and thus they will not be subjected to any hardship.

Applicant has submitted a statement of extensions and construction work which it believes should be carried out within the near future and which applicant estimates would cost it a total of \$11,675.00. While these improvements probably ought to be made sooner or later, we think it is better not to authorize the sale of the bonds for this purpose until applicant is ready to proceed with the improvements. The matter may then be taken up with this Commission and authority granted under a supplemental order for the issue and sale of a sufficient number of bonds to provide for these improvements.

Applicant further asks for permission to reimburse its treasury out of the proceeds of said new bond issue for moneys actually expended from income and other moneys in the treasury. Applicant alleges that this money was expended for additions to the plant which were made from September 30, 1913, to July 1, 1915, as above set forth in detail, amounting to the sum of \$9,657.79. We believe that applicant's immediate necessities will be met by authorizing it, at this time, to reimburse its treasury to the extent of \$2,500.00.

We are unable to approve in its present form the proposed deed of trust submitted by applicant but we shall authorize the execution of a deed of trust securing the bond issue hereinafter authorized upon condition that applicant shall submit a new deed of trust and, before its execution, shall have the same approved by a supplemental order of this Commission.

ORDER.

Ontario-Upland Gas Company having applied to this Commission for authority to issue \$11,005.00 par value of its capital stock at not less than 75 cents per share, and to execute a mortgage or deed of trust to secure a bonded indebtedness of \$100,000.00 of first mortgage, 20-year, 6 per cent bonds, and to issue and sell \$75,000.00 face value of said bonds at the best price obtainable, and a public hearing having been held upon said application and the Railroad Commission finding that the purposes for which said bonds or the proceeds thereof are to be

used are not in whole or in part reasonably chargeable to operating expenses or to income, and that the application should be granted in part,

It is hereby ordered that that portion of applicant's petition requesting authority to issue \$11,005.00 par value of its capital stock is hereby denied without prejudice; and

It is hereby further ordered that Ontario-Upland Gas Company be and it is hereby authorized to execute a mortgage or deed of trust of its properties to secure a bonded indebtedness of \$100,000.00 par value of first mortgage, 20-year, 6 per cent bonds.

It is hereby further ordered that Ontario-Upland Gas Company be and the same is hereby granted authority to issue \$60,000.00 face value of said first mortgage, 20-year, 6 per cent bonds.

The authority herein granted to the applicant to execute a mortgage of its properties and to issue \$60,000.00 of its bonds is granted upon the following conditions, and not otherwise:

1. Ontario-Upland Gas Company shall issue said bonds so as to net said company not less than 90 per cent of the par value of the principal thereof and accrued interest thereon.

2. Before any of said bonds herein authorized shall be issued, applicant shall make definite provision for the purchase at not more than par of all of its present issue of \$25,000.00 of bonds now outstanding; and said outstanding bonds shall be returned to applicant and canceled before or immediately upon the issue of any of the bonds herein authorized.

3. The proceeds of the bonds herein authorized to be issued shall be applied as follows:

To refund all of applicant's present issue of bonds	\$25,000 00
To pay applicant's three outstanding notes to Western Boiler and Steel Company	25,122 57
To pay applicant's note to Bent & Pennelaker	550 00
To pay Western Boiler and Steel Company for the certain additions and betterments to its system, now under course of construction, and referred to in the foregoing opinion	680 00
To reimburse applicant's treasury on account of moneys expended from income	2,500 00
Total	\$53,852 57

4. Applicant shall submit to this Commission a revised deed of trust and shall not execute any deed of trust until it shall have obtained a supplemental order approving the same.

5. The authority herein granted to execute the mortgage or deed of trust above mentioned, and to issue bonds as above set forth, shall apply only to such mortgage or deed of trust as shall be executed, and to such bonds as shall be issued, on or before August 31, 1916.

6. Applicant shall report to the Railroad Commission within thirty days after the issue of the bonds herein authorized the face value of the bonds so issued, the net amounts received therefor, and the disposition of the proceeds thereof, all in accordance with this Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

7. This order shall not become effective until applicant has paid the fee specified in section 57, as amended, of the Public Utilities Act.

Dated at San Francisco, California, this 14th day of February, 1916.

DECISION No. 3095.

IN THE MATTER OF THE APPLICATION OF ANTELOPE CREEK AND
RED BLUFF WATER COMPANY FOR AN ORDER AUTHORIZING THE
ISSUE OF NOTES.

Application No. 2053.

Decided February 14, 1916.

Applicant applies for and is granted permission to issue serial notes in the principal sum of \$11,000.00, payable in from one to five years, for the purpose of refunding \$4,000.00 in bonds and \$7,000.00 in notes.

Elliott McAllister, for Applicant.

REPORT OF THE COMMISSION.

This is an amended application of Antelope Creek and Red Bluff Water Company for authority to issue an installment note or notes in the total sum of \$11,000.00 to Savings Union Bank and Trust Company for the purpose of refunding \$4,000.00 of bonds and \$7,000.00 of notes now outstanding.

Applicant was incorporated in April, 1888, and since that time has been engaged in supplying water in the city of Red Bluff, Tehama County. Witness for applicant testified that at the present time the company's only indebtedness consists of \$4,000.00 of bonds and \$7,000.00 of notes. The bonds now outstanding are held by the Savings Union Bank and Trust Company of San Francisco, and are the remainder of an issue of \$20,000.00 of first mortgage 4 per cent bonds issued in 1898. Of the \$4,000.00 of bonds now outstanding, \$1,000.00 matures December 31, 1916, and similar amounts in each of the succeeding three years.

The notes which applicant has outstanding were issued under authority granted by this Commission in its Decision No. 404 (Vol. 2, Opinions and Orders of the Railroad Commission of California, page 18), and certain orders issued supplemental thereto. Said Decision No. 404 gave

applicant authority to issue 6 per cent promissory notes in the total sum of \$15,000.00 for the purpose of liquidating a \$3,000.00 note held by Bank of Tehama County and providing funds with which to reimburse the company's treasury for moneys expended in additions and betterments.

In a second supplemental order, dated February 6, 1915 (Vol. 6, Opinions and Orders of the Railroad Commission of California, page 170), the company was authorized to issue promissory notes in the sum of \$12,000.00 for the purpose of refunding a note for \$3,500.00, being the unpaid balance of notes issued under the original Decision No. 404, and to provide funds with which to reimburse the company's treasury in the sum of \$8,500.00 for moneys previously expended for additions and betterments.

Of the \$12,000.00 of notes so authorized, applicant issued only \$7,000.00 as follows:

Payee	Amount	Date	Date of maturity	Interest rate, per cent
Bank of Tehama County.....	\$3,500.00	Nov. 26, 1915	Feb. 6, 1916	6
Bank of Tehama County.....	3,500.00	Apr. 28, 1915	Feb. 6, 1916	6

In the present application authority is asked to issue an \$11,000.00 installment note or notes to Savings Union Bank and Trust Company of San Francisco and to use the proceeds in taking up the \$4,000.00 of bonds and \$7,000.00 of notes above mentioned. The note or notes which the company desires to issue will bear interest at 5 per cent per annum and will be payable as follows:

\$1,000.00 on or before December 31, 1916
 \$2,000.00 on or before December 31, 1917
 \$2,000.00 on or before December 31, 1918
 \$2,000.00 on or before December 31, 1919
 \$2,000.00 on or before December 31, 1920
 \$2,000.00 on or before December 31, 1921

After consideration of the evidence submitted by applicant it appears that this application is reasonable and should be granted subject, however, to the terms of the following order:

ORDER.

Antelope Creek and Red Bluff Water Company having applied to this Commission for authority to issue an \$11,000.00 5 per cent installment note or notes to Savings Union Bank and Trust Company of San Francisco, and a hearing having been held and it appearing to this Commission that applicant's request is reasonable and the purposes for which it is proposed to issue said note or notes are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Antelope Creek and Red Bluff Water Company be and it is hereby authorized to issue an instalment note or notes to Savings Union Bank and Trust Company of San Francisco in the principal sum of \$11,000.00 and bearing interest at 5 per cent per annum and maturing as follows:

\$1,000.00 on or before December 31, 1916
 \$2,000.00 on or before December 31, 1917
 \$2,000.00 on or before December 31, 1918
 \$2,000.00 on or before December 31, 1919
 \$2,000.00 on or before December 31, 1920
 \$2,000.00 on or before December 31, 1921

The order herein granted is granted upon the following conditions and not otherwise:

1. The proceeds from the note or notes herein authorized to be issued shall be used for the following purposes and not otherwise:

(a) To retire \$4,000.00 of applicant's first mortgage 4 per cent bonds now outstanding, held by Savings Union Bank and Trust Company of San Francisco.

(b) To retire two 6 per cent promissory notes in the sum of \$3,500.00 each, payable to Bank of Tehama County, dated April 28, 1915, and November 26, 1915, respectively, and maturing February 6, 1916.

2. Applicant shall report to this Commission within thirty days after the issue of any note or notes authorized to be issued, the name of the payee, the term of the note, the rate of interest and the face amount of such note or notes and the application of the proceeds.

3. The authority herein granted to issue a note or notes shall not become effective until the payment by applicant of the fee prescribed in the Public Utilities Act.

4. The authority herein granted shall apply only to such note or notes as shall have been issued on or before June 30, 1916.

Dated at San Francisco, California, this 14th day of February, 1916.

DECISION NO. 3096.

PETER A. LOFGREN

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 875.

Decided February 14, 1916.

Complainant petitions the Commission to compel defendant company to extend its mains a distance of approximately 1,100 feet so as to serve him with gas for domestic purposes, and it appearing that with the exception of complainant there are only a limited number of possible additional consumers in this

district which would require further extensions to be served, that the expenses incidental to such extensions would not warrant the company in making same under ordinary conditions. Defendant directed to make the extensions necessary, provided that proposed consumers guarantee, for a period of three years, the monthly minimum amounts prescribed.

Albert A. Stiefvater, for Complainant.

Charles P. Cutten, for Defendant.

REPORT OF THE COMMISSION.

Complainant herein alleges in effect that the defendant company has refused, and still refuses, to extend its gas mains to serve his residence and also certain other residences hereinafter referred to in the same tract. The defendant company in its answer admits that it has refused to extend its gas service as alleged, for the reason that in the immediate vicinity of the proposed extension sufficient business can not be obtained to justify the investment. The defendant further states that the local investment to serve complainant would be \$269.50; that the investment to serve the complainant and three additional residences located in adjacent territory would be approximately \$575.30, from which a revenue not to exceed \$70.00 per year would be obtained.

At the hearing evidence was introduced by both the complainant and defendant relating to expense to be incurred and revenue to be derived not only from an extension of service to the complainant alone but to various groups of residents in the tract. Without objection on the part of either party the general question of extensions in that tract was considered at the hearing.

The material portions of the evidence are as follows:

The defendant company has heretofore extended its mains to within approximately 1,100 feet of the residence of complainant. Such extension was made with the belief that the territory to be served by that extension would be built up, but little revenue has been obtained therefrom, and it has proved unremunerative.

Complainant's residence is located at the corner of Grand avenue and Scott street, in the Toler Heights tract, in the city of Oakland. There has been little development in the tract so far, and there is no reason to believe that any unusual development will take place there in the near future. At the present time there are seven residences located in the territory near the complainant's house. Four of the seven, including complainant, have signified their willingness to take gas service, and it is possible that one or two of the remaining will take service.

The location of the residences is as follows:

- Mr. P. A. Lofgren, lot No. 2, block L, fronting Scott street.
- Mr. Backlund, lot No. 10, block Q, fronting Williams street.
- Mr. Ross, lot No. 8, block V, fronting Williams street.
- Mr. Keen, lot No. 1, block O, fronting Williams street.
- Mr. Liedenstrander, lot No. 5, block L, fronting Scott street.
- Mr. Olsen, lot No. 8, block L, fronting Scott street.
- Mr. Laurence, lot No. 9, block L, fronting Scott street.

The present gas mains of the company have been extended to Foot-hill boulevard and Mountain View avenue in the tract. To serve the complainant will require a two-inch main extension approximately 1,100 feet in length along Mountain View and Grand avenue.

To serve Messrs. Backlund, Ross and Keen will require an additional extension of approximately 1,050 feet along Grand avenue and Williams street.

An extension to serve the three remaining possible consumers will be approximately 450 feet.

The cost of the extensions proposed is approximately as follows:

Probable Cost of Extension.

1. Lofgren	\$270
2. Addition to serve Backlund, Ross and Keen	305
3. Addition to serve 3 houses on Scott street	180
Total of 1 and 3	450
Total of 1 and 2	575
Total of 1, 2 and 3	755

The revenue to be obtained was estimated to be approximately \$18.00 per annum per consumer as determined from the average conditions in this district, although there is a question whether this amount will be obtained from each of these residences.

An investigation of the average operating expenses and operating revenue of the company disclosed that the expenses, exclusive of depreciation, equal approximately 55 per cent of the gross revenue of the gas department.

The extension in question is within the city limits of Oakland and defendant has a monopoly of the business and presumably a constitutional franchise to extend over all streets, and, as referred to in other decisions, the company must expect to make some extensions which are not in themselves entirely remunerative. In this instance, however, the small percentage of revenue to be obtained would hardly justify the requiring that the company make the extension without an additional guarantee from the consumers.

We are of the opinion in this case that it would be fair to both the consumer and company if the consumer was required to pay his portion of the operating expenses and an allowance for interest and depreciation upon the investment required to make the local extension, leaving any proportionate cost of the production and transmission

fixed charges of interest and depreciation upon the general system to be cared for by the connection of consumers upon the present mains, and the future consumers connected upon the proposed mains of the company.

The following table contains a statement of the factors necessary to the solution of a reasonable rate to be charged in accordance with the opinion herein immediately above expressed:

	Estimated Investment	Probable revenue	Operating expense 55 per cent	Fixed charges 10 per cent	Total cost
1—Lofgren	\$270 00	\$24 00	\$13 20	\$27 00	\$40 20
2—Backlund, Ross and Keen.....	305 00	48 00	26 40	30 50	56 90
3—Three houses on Scott street..	180 00	45 00	24 75	18 00	42 75
Total of 1 and 3.....	450 00	69 00	37 95	45 00	82 95
Total of 1 and 2.....	575 00	72 00	39 60	57 50	97 10
Total of 1, 2 and 3.....	755 00	117 00	64 35	75 50	139 85

From the foregoing it will appear that considering Mr. Lofgren by himself he should guarantee \$3.50 per month.

Considering the complainant and the consumers Backlund, Ross and Keen as a group to be served by a possible extension, they should guarantee at least \$8.25 per month in the aggregate, or \$2.10 per residence per month.

Considering complainant and the three possible consumers on Scott street as a possible basis for an extension, a guarantee of at least \$7.00 per month should be made, or \$1.75 per month per consumer.

Considering the seven consumers together, a guarantee of at least \$1.70 per consumer per month should be made.

ORDER.

Complainant having applied to this Commission for an order directing the defendant, Pacific Gas and Electric Company, a corporation, to extend its service lines so as to serve complainant with gas for lighting and heating purposes;

And the Commission, after a public hearing in relation thereto, having fully considered the facts from the proofs adduced, and all and singular being advised in the premises; now, therefore,

It is hereby ordered that defendant, Pacific Gas and Electric Company, extend its service lines and connections in such manner as may be necessary to provide gas for lighting and heating purposes to the residences, or groups of residences, in Toler Heights, Brooklyn township, Oakland, California, as may comply with the following conditions, it being expressly understood that said extensions are ordered only upon full compliance on the part of the consumers with the following conditions:

1. Before an extension be made to furnish only the residence of complainant herein, the complainant shall execute in favor of the

defendant company a good and sufficient undertaking or guarantee to said defendant company, guaranteeing that he, or the occupant of the premises, will use the gas for lighting or other purposes and pay therefor a minimum charge of \$3.50 per month for a period of three years.

2. Before an extension be made necessary to serve complainant herein and the premises occupied by Messrs. Backlund, Ross and Keen, said, or other, consumers shall execute in favor of defendant company a good and sufficient undertaking or guarantee to said defendant company, guaranteeing that they will use gas for lighting and other purposes and pay therefor a minimum charge of \$2.10 per month each for a period of three years.

3. Before an extension be made necessary to serve the residence of complainant and the premises hereinabove designated as the three houses on Scott street, the same being now occupied by Messrs. Liedenstrander, Olsen and Laurence, said, or other, consumers shall execute in favor of the defendant company a good and sufficient undertaking or guarantee to said defendant company, guaranteeing that they will use the gas for lighting or other purposes and pay therefor a minimum charge of \$1.75 per month each for a period of three years.

4. Before an extension be made necessary to serve the residence of complainant herein, together with the premises now occupied by Messrs. Backlund, Ross, Keen, Liedenstrander, Olsen and Laurence, said, or other, consumers shall execute in favor of the defendant company a good and sufficient undertaking or guarantee to said defendant company, guaranteeing that they will use the gas for lighting or other purposes and pay therefor a minimum charge of \$1.70 per month each for a period of three years.

5. The Commission reserves the right to make such further orders in this proceeding relative to the amount of the above minimum charge and the manner of guaranteeing the same as it may deem necessary, and to further modify this order in such manner as may be advisable in the premises.

Dated at San Francisco, California, this 14th day of February, 1916.

DECISION No. 3097.

IN THE MATTER OF THE APPLICATION OF TOWN OF UKIAH CITY
FOR AN ORDER APPROVING INCREASE IN RATES CHARGED BY
IT FOR ELECTRIC ENERGY TO ITS CUSTOMERS WITHOUT ITS
CORPORATE LIMITS.

Application No. 1850.

Decided February 11, 1916.

Applicant, operating a municipal electric distributing system, applies for permission to put into effect a new schedule of rates to consumers outside the city

limits, the new schedule affecting an increase to only one consumer, the Ukiah Water and Improvement Company, its largest patron, and after review of the evidence submitted it appearing that the petition is reasonable, application granted.

Charles M. Mannon, city attorney, for Applicant.

F. A. Brush, for Ukiah Water and Improvement Company.

REPORT OF THE COMMISSION.

By this application the town of Ukiah City, a municipal corporation of the sixth class, asks authority of the Railroad Commission to increase rates to be charged by it for electric energy distributed over its municipally owned system to territory outside of the city limits.

The city contemplates a change in both lighting and power rates. It will not be necessary, however, to particularly consider lighting rates herein for the reason that the only customers served beyond the city limits are users of power. Only one of these, Ukiah Water and Improvement Company, will be adversely affected by the rate requested.

The following tables show the present and the proposed schedules of rates for energy furnished for power purposes:

Present Schedule.

Size of Installation	1st 100 k.w.h. per h.p. per month	2d 100 k.w.h. per h.p. per month	Over 200 k.w.h. per h.p. per month
1 h.p. or less.....	4¢	3¢	2¢
Over 1 h.p., including 5 h.p.....	3½¢	2¾¢	2¢
Over 5 h.p., including 10 h.p.....	3¢	2½¢	1½¢
Over 10 h.p., including 20 h.p.....	2½¢	2¢	1¢
All over 20 h.p.....	1½¢	1¢	¾¢

Minimum bill \$1.00 per month per h.p. installed.

Proposed Schedule.

Size of Installation	1st 40 k.w.h. per h.p.	All over 40 k.w.h. per h.p.
Less than 2 h.p.....	4¢	3¢
2 to 10 h.p.....	3½¢	2½¢
10 to 30 h.p.....	3¢	2¢
30 to 50 h.p.....	2¢	1½¢
Over 50 h.p., 2,300 volt service only.....	1½¢	

Minimum charge 50 cents per month per h.p. installed.

The city purchases current from the Snow Mountain Water and Power Company metered at its switchboard substation in Ukiah under a schedule of rates fixed pursuant to Decision No. 1309, in Case No. 483, *Town of Ukiah vs. Snow Mountain Water and Power Company* (Vol. 4, Opinions and Orders of the Railroad Commission of California, p. 293). This schedule is upon a sliding scale, which varies from 2.9514 cents

to 1.1754 cents, depending upon the amount of energy consumed. The average rate paid by the city under this schedule for the fiscal year ending June 30, 1915, was 1.374 cents per kilowatt hour, its total consumption having amounted to 780,683 kilowatt hours. Of this current purchased from the Snow Mountain Water and Power Company, the city sold and delivered over 26½ per cent to Ukiah Water and Improvement Company, being 205,020 kilowatt hours metered at its station, at an average price of .992 cents per kilowatt hour. The company paid for current the sum of \$2,033.83. For this it would have paid at the proposed new rate \$3,097.81 gross, or an increase of \$1,063.98.

Previous to the decision of the Commission fixing this load factor rate, the city was purchasing energy on a flat rate basis at \$4.00 per month per horsepower of maximum demand, the load being largely lighting, with an inherent load factor of some 30 per cent. The city, in order to fill up the valley or offpeak period, sold energy to the Ukiah Water and Improvement Company at a rather low rate as follows:

First 100 k.w.h. per h.p. per month.....	1½ cents
Second 100 k.w.h. per h.p. per month.....	1 cent
Over 200 k.w.h. per h.p. per month.....	½ cent

This consumer operates a pumping plant driven by a 75-horsepower, 2,300 volt motor, by which water is pumped to a considerable height into a reservoir, from which it is distributed to the inhabitants of Ukiah for domestic purposes. The plant is located some distance beyond the city limits. Due to the unusual consumption of water per capita, the annual load factor of this plant is about 35 per cent and the monthly load factor during the summer season has been as high as 90 per cent. The reason for this difference between monthly and annual load factors is that during several winter and spring months no water is pumped, most of the water being supplied by gravity. It also has a steam plant to operate its pumps, which it could use if desired.

It developed at the hearing that the only other consumer outside the city limits is the French American Wine Company which has a 25-horsepower installation, but the effect on this consumer of the proposed change in schedule, is a reduction in its rate. This is due to the fact that the annual consumption has been quite small and the consumer paid only the minimum, which in the proposed schedule, is reduced from \$1.00 to 50 cents per month per horsepower.

The line supplying service to the water company is 3-phase, 2,300 volts, approximately 1½ miles in length, and consists of No. 4 wire for about half the distance and No. 6 wire for the remainder, strung on 35-foot poles. The city owns the line to the city limits, a total of 29

poles, and the portion beyond the city limits was constructed by the water company, there being 15 poles in this section. The current furnished by the city is metered at the water company's station. A map filed by applicant shows that there are a considerable number of consumers supplied from this line inside the city limits so that the entire line is not chargeable to this consumer.

For this reason we have determined the local cost of primary distribution for the entire system rather than attempt to prorate this particular line to the several consumers connected thereto.

In arriving at the total cost of service to this consumer the base cost is that for energy deliverable to the Ukiah distribution system, which is the schedule rate paid by the city. The additional costs are for primary distribution, which includes a proper pro rata of investment and operating expenses of switching station and primary lines; and for increase in the energy cost to cover loss in local primary distribution. The rate of return used in our ascertainment of investment cost is 5 per cent, being the rate of interest paid by the city on bonds sold to finance the original construction.

The cost of service so derived is as follows:

Annual demand charge-----\$6.70 per horsepower of installed motor capacity.
Plus energy charge----- 0.0117 per k.w.h.

For the consumption of the water plant for the year ending July, 1915, the above is equivalent to an average cost per kilowatt hour of \$0.01415 and a total annual cost of \$2,901.23.

The attitude of the city at the hearing was that it did not care to earn any profit at this time on the service to the water plant. In fixing the rate herein we are mindful of the fact that the consumer could probably construct a line to the Talmage substation of the Snow Mountain Water and Power Company and obtain service at a rate lower than cost to the city; that it has an auxiliary steam plant which tends to limit the value of the service when compared with cost of steam operation; and also that the rate paid by the water company should be reflected in the water rates paid by the inhabitants of Ukiah.

It has not been possible to accurately determine the original cost of the system from the data available. In 1900 the city voted \$18,000.00 of 5 per cent bonds, which were sold at par and the proceeds used to build an electric generating plant and distributing system under contract by which it was to cost \$16,500.00. Later the machinery of the generating plant was sold for \$1,700.00. Practically all of the original distribution system has since been replaced. There has been no further bond issue. After its construction there was a considerable additional investment in the plant and system, the amount of which could not be shown. Therefore, the estimated cost of the portion of the system necessary to this inquiry, based on the inventory submitted

by the city electrician, has been considered in estimating return to the city as an element of cost.

The water company appeared at the hearing and stated that its present rates for water do not justify its paying an increased rate for electric energy, and that hydrant rentals have been gradually reduced by the city from \$5.00 to 25 cents per month. It also complained of serious loss through waste of water. These matters, however, can not be properly considered under the present application relating to rates for electric energy. They are, of course, subjects for inquiry in a suitable proceeding.

For the reasons indicated we have concluded to modify the proposed rate for installations of over 50 horsepower, but otherwise authorize the rates requested.

ORDER.

The town of Ukiah City having applied to the Railroad Commission for authority to increase rates for electric energy served by it beyond its corporate limits, as shown in its proposed schedule of rates for lighting and power purposes, submitted with the application, and a public hearing having been held thereon and the Commission being now fully advised in the premises, and the matter being ready for determination, it is hereby found as a fact that applicant's existing rates for electric energy distributed by it in territory beyond its corporate limits are unjust and unreasonable in so far as they differ from the rates herein established.

It is hereby further found as a fact that the rates herein established are fair and reasonable rates for electric energy distributed by applicant in territory beyond its corporate limits. Basing its order on the foregoing findings of fact and the findings of fact contained in the opinion preceding this order,

It is hereby ordered that the town of Ukiah City be and it is hereby authorized to establish and file with the Railroad Commission within thirty days from the date of this order, the following rates for electric energy supplied by it to consumers outside of and beyond its corporate limits, to wit:

Schedule A—Lighting Rates.

- 10 cents each for first 20 k.w.h. used per month.
- 7 cents each for next 30 k.w.h. used per month.
- 3 cents each for all over 50 k.w.h. used per month.
- Current measured with recording watt-hour meters.
- No discounts or penalties.
- Minimum charge fifty cents per month.

Schedule B—Flat Rates for Lighting.

Present schedule to remain in effect.

Schedule C—Power Rates.

Less than 2 hp.—Installations of—

4 cents each for first 40 k.w.h. per h.p. installed, used per month.

3 cents each for all over 40 k.w.h. per h.p. installed, used per month.

Installations from 2 to 10 h.p.

3½ cents each for first 40 k.w.h. per h.p. installed, used per month.

2½ cents each for all over 40 k.w.h. per h.p. installed, used per month.

Installations from 10 to 30 h.p.

3 cents each for first 40 k.w.h. per h.p. installed, used per month.

2 cents each for all over 40 k.w.h. per h.p. installed, used per month.

Installations from 30 to 50 h.p.

2 cents each for first 40 k.w.h. per h.p. installed, used per month.

1½ cents each for all over 40 k.w.h. per h.p. installed, used per month.

Minimum charge fifty cents per month per h.p. installed.

Primary Power Rates.

Applicable to primary power installations in excess of 50 h.p.

Demand charge \$0.70 per year per h.p. of rated motor capacity, plus energy charge 1.17 cents per k.w.h.

Dated at San Francisco, California, this 14th day of February, 1916.

DECISION No. 3098.

IN THE MATTER OF THE APPLICATION OF CITY RAILWAY COMPANY
OF LOS ANGELES FOR AN ORDER AUTHORIZING THE ISSUE
OF BONDS.

Application No. 1977.

Decided February 14, 1916.

City Railway Company of Los Angeles applies for permission to issue to the Los Angeles Railway Corporation \$280,000.00 face value of its 6 per cent bonds at par in payment for extensions constructed by the latter company, and it appearing that the extensions represent an investment considerably in excess of the amount of bonds asked for, application granted.

Gibson, Dunn & Crutcher, by S. M. Haskins, for Applicant.

REPORT OF THE COMMISSION.

City Railway Company of Los Angeles, by its amended application, seeks authority from the Railroad Commission to issue \$280,000.00 face value of its first mortgage 6 per cent bonds at par to Los Angeles Railway Corporation in payment for improvements and extensions to its system of street railways in the city of Los Angeles.

Applicant was incorporated December 1, 1910, with an authorized capital of \$5,000,000.00, divided into 50,000 shares of the par value of \$100.00 each. It has an authorized bonded indebtedness of \$5,000,000.00 face value, of which 3,613 bonds of the face value of \$1,000.00 each are now issued and outstanding. Its said bonds are dated February 1, 1911, prior to the effective date of the Public Utilities Act.

Applicant was organized as an auxiliary of the Los Angeles Railway Corporation for the purpose of financing extensions of the lines of that system. Under the plan pursued by these companies, the extensions are constructed by Los Angeles Railway Corporation for applicant. City Railway Company of Los Angeles pays therefor with its said bonds issued at par. The extensions are thereafter operated by Los Angeles Railway Corporation under lease. The relation and financing of these two companies is fully set forth in Decision No. 2193, March 3, 1915, pertaining to the organization and financing of a new corporation to take over the properties. (Vol. 6, Opinions and Orders of the Railroad Commission of California, p. 272.)

Under the mortgage or deed of trust securing the payment of the bonds, bonds are to be certified and delivered by the trustee upon receiving certificate from the officers of the issuing company to the effect that an equivalent amount of indebtedness has been incurred.

At the hearing it was shown that in pursuance of this general plan applicant has become indebted to Los Angeles Railway Corporation for the construction of substations, car houses, tracks, buildings, shops and other structures, and the furnishing of equipment, to the extent of considerably more than \$280,395.77, which indebtedness remains unpaid, and on account of which it wishes to issue bonds of the face value of \$280,000.00 at par.

The chief engineer and the auditor of the Commission in their work of bringing the valuation of these properties down to date, find that the amount mentioned has been invested as claimed, and that the present indebtedness far exceeds said amount. We shall, therefore, authorize the issue of bonds as prayed.

ORDER.

City Railway Company of Los Angeles having applied to the Railroad Commission of the State of California for an order authorizing the issue by said company of \$280,000.00 face value of its bonds at par to Los Angeles Railway Corporation on account of an existing indebtedness now due from applicant of \$280,395.70, and a public hearing having been held upon said application and the Railroad Commission finding that the purposes for which said bonds are herein authorized to be issued are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that the Railroad Commission of the State of California does hereby authorize the issue at par by said City Railway Company of Los Angeles to Los Angeles Railway Corporation of \$280,000.00 face value of principal of its bonds, dated February 1, 1911, in satisfaction and discharge of \$280,000.00 of its present indebtedness, to said Los Angeles Railway Corporation, incurred for certain improve-

ments, betterments and extensions constructed by it for applicant, upon the following conditions and not otherwise, to wit:

1. City Railway Company of Los Angeles shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued and shall, within twenty days after the issue of any such bonds, make verified report to the Railroad Commission, stating the moneys realized therefrom and the use and application of such moneys.

2. The authority hereby granted shall apply only to such bonds as may have been issued on or before May 1, 1916.

3. The authority herein granted shall not become effective until City Railway Company of Los Angeles has paid the fee specified in section 57, as amended, of the Public Utilities Act.

Dated at San Francisco, California, this 14th day of February, 1916.

DECISION No. 3099.

IN THE MATTER OF THE APPLICATION OF DEATH VALLEY RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF CERTAIN STOCK.

Application No. 2073.

Decided February 14, 1916.

Applicant's sinking fund provisions in its deed of trust providing for the retirement of a certain amount of bonds at stated periods, applies for permission to issue 239 shares of its capital stock of the par value of \$100.00 per share for the purpose of retiring 50 bonds of the face value of 100 pounds sterling each in accordance with such provisions. Application granted.

F. M. Jenifer, for Applicant.

REPORT OF THE COMMISSION.

This is an application on behalf of Death Valley Railroad Company, a corporation, for an order authorizing the issue and sale of 239 shares of its capital stock of the par value of \$100.00 per share for the purpose of retiring certain bonds as hereinafter set forth.

Applicant owns and operates a narrow gauge railway 16.95 miles in length in Inyo County, connecting the Biddy McCarthy borax mine with the Ryan branch of the Tonopah and Tidewater Railway. Applicant is controlled and its bonds are guaranteed by the Borax Consolidated, Limited, of London, England.

On March 10, 1914, by Decision No. 1330 (Vol. 4, Opinions and Orders of the Railroad Commission of California, p. 389) this Commission authorized applicant to issue and sell, in order to obtain funds for the construction of its railway, 473 bonds of the face value

of 100 pounds sterling each, or a total face value of 47,300 pounds sterling, so as to net applicant not less than 90 per cent of their face value, and \$75,000.00 par value of its capital stock, at par. On September 1, 1914, this Commission by Decision No. 1771 (Vol. 5, Opinions and Orders of the Railroad Commission of California, p. 352) authorized applicant to issue and sell, so as to net applicant not less than 90 per cent of their face value, 204 additional bonds of the face value of 100 pounds sterling, or a total face value of 20,400 pounds sterling, for the purpose of completing applicant's line of railway and for other capital expenditures.

In pursuance of such authorization, applicant duly issued and sold said \$75,000.00 par value of stock and said 677 bonds of the face value of 100 pounds sterling (or the equivalent of approximately \$487.00) each, making a total bond issue then outstanding of the face value of 67,700 pounds sterling, or approximately \$329,699.00.

The deed of trust securing said bonds provides for a total bond issue of 822 bonds of a total face value of 82,200 pounds sterling, and contains the following provision for the retirement of said bonds:

"The railroad company covenants, promises and agrees to pay, on or before the several dates hereinafter mentioned, to the trustee (to be held by the trustee as a sinking fund for the retirement and payment of bonds) sums of money sufficient for said trustee to retire and pay issued and outstanding bonds as the same are herein provided to be paid and retired, and the said trustee shall apply the money so paid into the sinking fund to retire and pay bonds issued and outstanding upon the surrender of such bonds and the unpaid interest coupons, as follows, to wit:

On March 1, 1915, 40 in number of said bonds.
On March 1, 1916, 50 in number of said bonds.
On March 1, 1917, 60 in number of said bonds.
On March 1, 1918, 70 in number of said bonds.
On March 1, 1919, 80 in number of said bonds.
On March 1, 1920, 85 in number of said bonds.
On March 1, 1921, 90 in number of said bonds.
On March 1, 1922, 100 in number of said bonds.
On March 1, 1923, 110 in number of said bonds.
On March 1, 1924, all of said bonds upon said date remaining issued, outstanding and unpaid.

In order to fulfill the provisions of the deed of trust for retiring the 40 bonds on March 1, 1915, applicant, on February 8, 1915, filed a petition with this Commission requesting an order authorizing it to issue and sell at par to Borax Consolidated, Limited, of London, England, 200 shares of its capital stock of the par value of \$100.00 per share, which authority was duly granted by Decision No. 2201 (Vol. 6, Opinions and Orders of the Railroad Commission of California, p. 327).

Applicant now asks permission to sell 239 additional shares of its capital stock at par to Borax Consolidated, Limited, of London, England,

and to use the proceeds from such sale in conjunction with money now in its sinking fund, amounting to approximately \$500.00, for the purpose of retiring the 50 bonds to be retired on March 1, 1916, as provided in said aforementioned deed of trust. As stated by Commissioner Devlin in Decision No. 2201 (*supra*): "It is the intention of applicant from time to time to refund its bonds by issues of stock, the stock to be taken by the Borax Consolidated, Limited. I believe this is a desirable method of financing this matter, as this railroad depends entirely upon the borax mine, and the method proposed contemplates the gradual retirement of all the bonds." In granting this application we shall simply be carrying out the policy of this Commission as above set forth.

Applicant has asked for an order giving it authority to issue and sell in the future additional shares of its capital stock to take care of the sinking fund payments as above set forth, as such payments become due. We can not at this time grant such an order; but supplemental orders may be issued hereunder, granting applicant permission, from time to time, to sell its stock for the above mentioned purpose, without necessitating the filing of a new formal application or the holding of a formal hearing every year.

ORDER.

Death Valley Railroad Company having applied to this Commission for authority to issue 239 shares of its capital stock of the par value of \$100.00 per share, and to use the proceeds thereof in conjunction with money now in its sinking fund, for the purpose of retiring on March 1, 1916, 50 of its outstanding bonds of the face value of 100 pounds sterling each, as provided for in its trust deed, and a public hearing having been held, and it appearing that the purposes for which it is proposed to issue said stock are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Death Valley Railroad Company be and the same is hereby granted authority to issue and sell 239 shares of its capital stock of the par value of \$100.00 per share.

The authority herein granted is granted upon the following conditions, and not otherwise:

1. The stock herein authorized to be issued shall be sold at par to Borax Consolidated, Limited, of London, England.
2. The proceeds derived from the sale of said stock shall be used to retire 50 of applicant's outstanding bonds, of the par value of 100 pounds sterling each, as provided in the deed of trust securing said bonds.
3. The authority herein granted shall apply to such stock as shall have been issued on or before December 31, 1916.

4. Within thirty days after the stock herein authorized to be issued shall have been issued, applicant shall report the issue to this Commission, with a statement of the application of the proceeds derived from the sale of said stock.

Dated at San Francisco, California, this 14th day of February, 1916.

DECISION No. 3100.

IN THE MATTER OF THE APPLICATION OF SANTA BARBARA AND SUBURBAN RAILWAY COMPANY, THE RIVIERA AND RICHARD HAMILTON GAUD FOR AN ORDER AUTHORIZING THE TRANSFER OF A FRANCHISE FOR A STREET RAILROAD AND FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 2025.

Decided February 15, 1916.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas this Commission by Decision No. 3044, dated January 15, 1916, authorized The Riviera, a corporation organized and existing under the laws of the State of California, to transfer to Santa Barbara and Suburban Railway Company a certain line of street railroad in Santa Barbara extending from the terminus of the so-called Normal School extension of the Santa Barbara and Suburban Railway southeasterly along the center line of Alameda Padre Serra, a distance of 930 feet; and

Whereas this Commission further authorized the transfer to Santa Barbara and Suburban Railway Company by Richard Hamilton Gaud of that certain franchise granted to Richard Hamilton Gaud, his successors and assigns on April 2, 1915, by Ordinance No. 865 of the city of Santa Barbara, and declared that public convenience and necessity required the exercise by Santa Barbara and Suburban Railway Company of the rights and privileges conferred by said franchise; and

Whereas this Commission's order in said Decision No. 3044 provided that the authority granted by said Decision No. 3044 should not become effective until there had been filed with the Commission—

1. A stipulation authorized by the directors of Santa Barbara and Suburban Railway Company declaring that said company, its successors and assigns, would never claim before the Commission or any court or any other public body any value for the rights and privileges conferred by said franchise, originally granted to Richard Hamilton Gaud, his successors and assigns, on April 2, 1915, by Ordinance No. 865 of the city of Santa Barbara; said

stipulation to be approved by the Railroad Commission in a supplemental order.

2. A certified copy of the conveyance by The Riviera to the Santa Barbara and Suburban Railway Company of all right, title and interest in the single track street railway located in Alameda Padre Serra in the city of Santa Barbara, extending from the terminus of the so-called Normal School extension southeasterly, a distance of 930 feet.

3. A certified copy of the conveyance by Richard Hamilton Gaud to Santa Barbara and Suburban Railway Company of all right, title and interest in that certain franchise granted to said Richard Hamilton Gaud, his successors and assigns, on April 2, 1915, by Ordinance No. 865 of the city of Santa Barbara; and

Whereas applicant has now filed with this Commission the above mentioned documents as set forth in paragraphs 1, 2 and 3 above, and it appearing to this Commission that said documents are in form satisfactory to this Commission so far as may be necessary for the purpose of this proceeding,

The Railroad Commission hereby finds as a fact that Santa Barbara and Suburban Railway Company has complied with the conditions of the order in Decision No. 3044, dated January 15, 1916.

Dated at San Francisco, California, this 15th day of February, 1916.

DECISION No. 3101.

IN THE MATTER OF THE APPLICATION OF CARL C. BELL AND JOHN L. BUTLER FOR AUTHORITY TO SELL AND OF MRS. S. K. MORRISON FOR AUTHORITY TO PURCHASE, THE PROPERTY OF THE COLFAX TELEPHONE EXCHANGE.

Application No. 1915.

Decided February 16, 1916.

Messrs. Bell and Butler apply for permission to transfer to Mrs. S. K. Morrison for the sum of \$3,500.00 their interest in a certain telephone plant known as the Colfax Telephone Exchange and a half interest in the Iowa Hill line, and it appearing that the purchase price is in excess of the actual value of the property transferred, application granted, provided that the price paid shall not be regarded in any way as having weight in any rate fixing or other investigation.

REPORT OF THE COMMISSION.

This is an application on behalf of Carl G. Bell and John L. Butler, hereinafter designated and referred to as the owners, for authority to sell for \$3,500.00 to Mrs. S. K. Morrison, and on behalf of Mrs. S. K. Morrison for authority to purchase, the Colfax Telephone Exchange in the city of Colfax, Placer County, and a one-half interest in the telephone line to Iowa Hill in said county.

A public hearing was held in Colfax on February 3, 1916, and from the evidence it appears that the owners have kept no books or records of the costs of materials or labor nor have they filed any annual reports with this Commission as prescribed by law. This condition of affairs, while not caused by intentional violation of the law, has rendered it impossible to form any accurate estimate of the amount of capital which has been actually invested in the property.

The exchange has been transferred a number of times during its brief existence and the following summary of these transfers may be of value as throwing some light upon the history, the growth, and the average age of the plant:

(a) Bought by John L. Butler from Pacific Telephone and Telegraph Company in 1905 or 1906, 16 subscribers-----	\$500
(b) Bought by J. B. McCleary from John L. Butler in 1910, 21 subscribers -----	1,200
(c) Bought by the present owners from J. B. McCleary on May 22, 1913, 48 subscribers -----	2,000

This last mentioned sale was approved by an ex parte order of this Commission (Decision No. 680, reported in Vol. 2, Opinions and Orders of the Railroad Commission of California, p. 938) without passing upon the valuation of the property or upon the reasonableness of the purchase price.

In June, 1915, Mrs. S. K. Morrison, who is the sister of applicant, Carl G. Bell, paid the owners \$3,500.00 as the purchase price for the Colfax Telephone Exchange, which now has 75 subscribers, and their one-half interest in the Iowa Hill line, without applicants having taken the precaution of obtaining the authorization of this Commission for the proposed transfer; and applicants are now coming before this Commission at this rather late date to obtain its authority.

The exchange at present comprises about seventy-five telephones, with connections with The Pacific Telephone and Telegraph Company's system, Colfax Suburban Telephone Company (a so-called "farmer's line"), and with the Iowa Hill line, together with all connections, permits, lines, poles and fixtures belonging to, or appurtenant to, the telephone plant of said Bell and Butler in the said city of Colfax.

From the evidence it appears that the purchase price of \$3,500.00 already paid by Mrs. S. K. Morrison is considerably in excess of the value of the property to be transferred, and in granting this application it must be distinctly understood that neither this Commission nor any other rate fixing body shall in any manner be bound by the selling price of said property.

ORDER.

Carl G. Bell and John L. Butler having applied to this Commission for authority to sell to Mrs. S. K. Morrison for the sum of \$3,500.00,

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the Colfax Telephone Exchange, situated in the city of Colfax, Placer County, which includes all the property described as belonging to said exchange in the foregoing opinion, and their one-half interest in the line known as the Iowa Hill line, and Mrs. S. K. Morrison having joined in this application, and a public hearing having been held, and it appearing to this Commission that the application should be granted,

It is hereby ordered that Carl G. Bell and John L. Butler be and the same are hereby authorized to sell to Mrs. S. K. Morrison for the sum of \$3,500.00 the Colfax Telephone Exchange described in the foregoing opinion, and their one-half interest in the Iowa Hill line upon the following condition, and not otherwise, to wit:

The purchase price for the property herein authorized to be transferred, and the action of this Commission in authorizing the transfer, shall not be binding upon this Commission or any other rate fixing body as affecting the valuation of said property for rate fixing purposes or otherwise.

Dated at San Francisco, California, this 16th day of February, 1916.

DECISION No. 3102.

IN THE MATTER OF THE APPLICATION OF MOUNTAIN LIGHT AND WATER COMPANY AND BROOKDALE LAND COMPANY TO TRANSFER CERTAIN PROPERTY.

Application No. 1940.

Decided February 16, 1916.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

Good cause appearing,

It is hereby ordered that Decision No. 2958 of the Railroad Commission of the State of California be and the same is hereby modified as to condition (5) therein contained so that said condition (5) shall read as follows:

“(5) Within sixty days from and after the date of this order, Mountain Light and Water Company shall file with this Commission a stipulation signed by H. L. Breed, as trustee for A. F. Hewlett and G. L. Stillwell and stockholders of Mountain Light and Water Company, who do not hold notes against the company, that they will cancel all their claims against the company upon the transfer of the property herein authorized to be transferred to said H. L. Breed, as trustee for A. F. Hewlett and G. L. Stillwell and stockholders of Mountain Light and Water Company.”

Dated at San Francisco, California, this 16th day of February, 1916.

DECISION No. 3103.

IN THE MATTER OF THE APPLICATION OF VALLEY NATURAL GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF PREFERRED AND COMMON STOCK.

Application No. 2017.

Decided February 16, 1916.

Applicant, intending the construction of a natural gas distributing system in certain portions of Kern County, applies for and is granted permission to issue 300 shares of its common capital stock of the par value of \$100.00 per share, and 400 shares of preferred capital stock of the par value of \$100.00 per share. Of the common stock applicant may issue 78 shares at not less than \$0 at the present time for expenses incurred in organization, the balance only under supplemental order, the preferred stock to be issued at not less than \$90, proceeds to be used in the construction of its gas distributing system in accordance with the plans filed with the Commission.

Lilienthal, McKinstry & Raymond, by Joseph Haber, Jr., for Applicant.

REPORT OF THE COMMISSION.

This is an application of Valley Natural Gas Company of Bakersfield, Kern County, for authority to issue 300 shares of common stock at not less than \$80.00 per share, and 400 shares of preferred stock at not less than \$90.00 per share, for the purpose of constructing a gas distribution and transmission system in that portion of Kern County lying between Wasco and Rosedale.

Valley Natural Gas Company was incorporated under the laws of the State of California, in November, 1915. Its articles of incorporation include the right to generate, produce and distribute electric energy, gas, light, fuel, heat and power of all kinds for all lawful purposes. It is incorporated for a term of fifty years.

The directors and incorporators of the company are as follows:

C. B. Colby, Bakersfield, California; W. A. Fischer, Bakersfield, California; F. H. Hall, Bakersfield, California; Ira Hochheimer, Bakersfield, California; C. R. Bledget, Bakersfield, California.

The company has an authorized capitalization of \$3,000,000.00, divided into 15,000 shares of common stock of the par value of \$100.00 per share, and 15,000 shares of 8 per cent cumulative preferred stock of the par value of \$100.00 per share. The terms of preference of the preferred stock as given in the company's articles of incorporation are as follows:

“Said preferred stock shall receive from the net earnings of the corporation an eight per cent (8%) annual, cumulative, preferential dividend before any dividends are paid upon the common stock, and all dividends paid by the corporation beyond such eight per

cent (8%) annual, cumulative, preferential dividend so paid on the preferred stock shall be paid on the common stock, and the preferred stock shall not in any way participate therein. Upon the dissolution or other termination of the corporation, holders of said preferred stock shall receive from the corporation the par value thereof and all unpaid dividends thereon before the distribution of any assets to the holders of common stock, and all additional and remaining assets shall be distributed among holders of common stock, and the holders of preferred stock shall not in any way participate in the distribution thereof."

A hearing in this application was held at Bakersfield on January 21, 1916, at which time the application of Valley Natural Gas Company for a certificate of public convenience and necessity (Application No. 2018) was also heard. Reference is hereby made to the Commission's decision in said Application No. 2018 for a more detailed description of applicant's project.

At the present time applicant desires to issue 300 shares of common stock at \$80.00 per share, and to use the proceeds or such portion thereof as may be necessary in defraying organization expenses. At the hearing applicant submitted statements of such expenditures to date totaling \$6,186.42. A segregation of these expenditures is as follows:

Company organization -----	\$1,192 75
Investigation of territory -----	2,786 65
Franchise expense -----	210 95
Engineering -----	1,943 70
Office furniture and supplies -----	52 37
Total -----	\$6,186 42

Of the above amount the company's organizers have paid \$2,353.54, leaving \$3,832.88 still due. Applicant states that this sum does not include any expenditures for supervision prior to organization, for promotion, for attorneys' fees and for certain engineering services rendered to applicant in connection with other aspects of this project, and that it is its intention to hereafter apply for an order authorizing the issue of common stock for such purposes.

The company also asks for authority to issue 400 shares of its 8 per cent preferred stock at \$90.00 per share, and to use the proceeds in defraying a portion of the cost of building its transmission line and laterals between Rosedale and Wasco.

Applicant estimates the cost of this line at \$84,180.00. It proposes to raise \$36,000.00 of this amount from the sale of preferred stock and the balance, or \$48,180.00, from an issue of short term notes.

Following is the detailed estimate submitted by applicant as to the cost of its transmission line, laterals, etc.:

25 miles 4 foot main at \$2,400 -----	\$60,000 00
12 miles 2 foot main at 900 -----	10,800 00
300 meters and regulators at \$8 -----	2,400 00
Overhead and indirect expenses -----	10,980 00
Total -----	\$84,180 00

Applicant represents that it will be enabled to put its project on a revenue producing basis by the expenditure herein outlined and certain other incidental outlays which will bring the total to approximately \$100,000.00.

Valley Natural Gas Company has entered into a contract with California Natural Gas Company by which it will purchase natural gas at 10 cents per 1,000 cubic feet. It has solicitors in the field seeking contracts for the sale of this natural gas to farmers along the route of its proposed pipe line from Rosedale to Waseo in Kern County.

The larger part of its sales will be to farmers desiring natural gas for fuel to be used in gas engines for pumping water for irrigation. Applicant will also sell gas for domestic purposes to consumers in the section of Kern County traversed by its lines.

Applicant estimates that it will be able to obtain a net revenue from this territory of approximately \$30,000.00 during the first year of operation. This will require a gross revenue of approximately \$50,000.00 per annum and the sale of approximately 8,300,000 cubic feet of gas per month for gas engine service. These estimates are based on applicant's proposed rates for gas engine service, which are upon a sliding scale and range from \$.55 to \$.35 per 1,000 cubic feet. In support of its statements representatives of the company stated that it had on file 200 applications for natural gas service.

While it is manifestly difficult to estimate with accuracy the possible earnings from such a project it is desirable that such an effort as this to put into practical use the natural resources of this State should meet with such encouragement as this Commission can consistently give. We believe the applicant has made a careful canvas of this territory and has shown that there exists a real demand for the service which it proposes to give.

The proponents of this project have asserted their willingness and desire to purchase stock in this company in larger amounts than herein indicated. It appears furthermore that the applicant has certain larger plans in mind to be determined later upon the measure of success obtained in this initial enterprise.

The promoters of this undertaking have carefully calculated the cost of the pumping service to the agriculturist on the basis of a natural gas

fuel as compared with a distillate fuel and in comparison also with the cost of electric energy. On the basis of these calculations, the applicant is convinced that a large business will be developed.

As hereinbefore set forth applicant proposes to sell its 8 per cent preferred stock at \$90.00 per share. At this figure the stock will yield a return of 8.89 per cent. This Commission has heretofore commented upon the peculiar and speculative nature of a natural gas enterprise and in the case of the Midway Gas Company expressed its opinion that a 10 per cent return was not unreasonable upon an investment in a natural gas project of the Midway type.

At the present time no other gas utilities are operating in this territory and applicant's success will depend largely upon its ability to serve gas to pumping plants at a price that can compete with distillate fuel or electric energy.

After a consideration of the evidence, we believe that this application should be granted, subject, however, to the terms of the following order:

ORDER.

Valley Natural Gas Company having applied to this Commission for authority to issue 300 shares of common stock of the par value of \$100.00 per share, and 400 shares of preferred stock of the par value of \$100.00 per share, and to use the proceeds in organizing a natural gas corporation and constructing a gas distribution and transmission system in Kern County as hereinbefore set forth, and a hearing having been held, and it appearing to this Commission that the purposes for which applicant proposes to issue said stock are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Valley Natural Gas Company be granted authority to issue 300 shares of its common capital stock of the par value of \$100.00 per share, and 400 shares of its preferred capital stock of the par value of \$100.00 per share.

The authority herein granted is granted upon the following conditions and not otherwise:

1. The common stock herein authorized to be issued shall be sold so as to net applicant not less than \$80.00 per share.
2. The preferred stock herein authorized to be issued shall be sold so as to net applicant not less than \$90.00 per share.
3. Of the common stock herein authorized to be issued applicant may issue not to exceed 78 shares at the present time for the purpose of defraying organization expenses already incurred by applicant in the sum of \$6,186.42 as hereinbefore set forth. The remainder of said common stock shall be issued by applicant only after it shall have filed a supplemental application with this Commission setting forth in detail the purposes for which it proposes to issue said common stock and shall

have received a supplemental order from this Commission approving the same.

4. The proceeds derived from the sale of the preferred stock herein authorized to be issued shall be used only for the purpose of constructing a gas distribution and transmission system in Kern County in accordance with the general plans and specifications outlined in the application herein.

5. Valley Natural Gas Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

6. The authority herein granted to issue stock shall apply only to such stock as shall be issued on or before February 1, 1917.

Dated at San Francisco, California, this 16th day of February, 1916.

DECISION No. 3104.

IN THE MATTER OF THE APPLICATION OF VALLEY NATURAL GAS COMPANY FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY APPLICANT OF THE RIGHT AND PRIVILEGE TO SELL GAS FOR LIGHT, HEAT AND POWER, AND ALL OTHER LAWFUL PURPOSES, UNDER THAT CERTAIN FRANCHISE GRANTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF KERN, STATE OF CALIFORNIA, ON THE ELEVENTH DAY OF DECEMBER, 1915.

Application No. 2018.

Decided February 16, 1916.

C. B. Colby applies for permission to transfer to the Valley Natural Gas Company a certain franchise granted by the county of Kern, permitting the construction of a gas distributing system from Rio Bravo through Rosedale to Wasco for the purpose of serving inhabitants of the towns named and farmers intermediate thereto. The Valley Natural Gas Company also applies for a certificate declaring that public convenience and necessity require the exercise of rights granted under such franchise. Application granted, provided that applicant shall not claim a value for such franchise other than the actual cost thereof.

Lilienthal, McKinstry & Raymond, by Joseph Haber, Jr., for Applicant.

REPORT OF THE COMMISSION.

This is an application of C. B. Colby to assign a certain franchise granted by the board of supervisors of the county of Kern to C. B.

Colby on the 11th day of December, 1915, to Valley Natural Gas Company, a corporation, and of Valley Natural Gas Company, of Bakersfield, Kern County, for a certificate that the present and future public convenience and necessity require, or will require, the construction and operation of a gas transmission and distribution system in Kern County, under a franchise granted by the board of supervisors of said county on December 11, 1915.

A hearing in this application was held at Bakersfield on January 21, 1916. Mr. C. B. Colby, president of the Valley Natural Gas Company, testified that it was the purpose of the company to construct a four-inch high pressure transmission line from the California Natural Gas Company's high pressure line near Rio Bravo northwesterly through the settlement known as Rosedale to the town of Wasco, and to construct laterals therefrom for the purpose of serving the inhabitants of Rosedale and Wasco and the farmers along the line with natural gas for light, heat and power.

For the first three miles after leaving Rio Bravo applicant states that it will have practically no revenue. The balance of the distance, however, is through agricultural territory and applicant expects to sell a large proportion of its gas to farmers for running gas engines used in irrigation. At the present time most of this territory is divided into private holdings of from 40 to 320 acres, and is largely devoted to the raising of grain and alfalfa. Mr. Colby estimates that there are approximately 3,000 horsepower of gas engines located in this district which could be converted from distillate burning to natural gas burning at a cost of from \$3.00 to \$7.00 per engine.

The question of supplying this territory with natural gas has been investigated by other concerns and about one year ago a mutual company of farmers near Rio Bravo considered the matter but the project did not assume tangible form.

The present applicant has had the matter of supplying this territory under consideration for nearly a year. It has established a local office at Wasco and a representative has been soliciting business and obtaining applications for service from the farmers and residents in this section.

The company has obtained approximately 200 applications for service, including 2,000 horsepower in gas engines in addition to domestic supply. Gas for heating and cooking in this territory is in demand because of the high cost of wood and coal.

The company desires to commence construction immediately in order to be ready for the irrigation season beginning about April 1st. It is estimated by applicant that the construction of its line will take about thirty-five or forty days after the pipe is on the ground.

For a detailed explanation of applicant's proposed financing reference is hereby made to this Commission's decision in Application No. 1017, being application of Valley Natural Gas Company to issue stock.

Applicant has entered into a twenty-year contract to purchase natural gas from California Natural Gas Company at the rate of 10 cents per one thousand cubic feet on a basis of four-ounce pressure above 14.4 pounds per square inch atmospheric pressure. Gas will be supplied at a pressure up to a maximum of 175 pounds per square inch at the point of delivery to the Valley Natural Gas Company, and no pumping will be required.

The company's proposed schedule of rates as filed with the Commission is as follows:

SCHEDULE "A."

Domestic Use.

Character of service.

The rates named herein apply to all residence lighting, heating and cooking.

Rates.

In any one calendar month.

For 1,500 cubic feet or less.....	\$1.50
Next 3,500 cubic feet.....	.80 per M. cubic feet
Next 5,000 cubic feet.....	.70 per M. cubic feet
Next 10,000 cubic feet.....	.60 per M. cubic feet
Next 40,000 cubic feet.....	.55 per M. cubic feet
All over 60,000 cubic feet.....	.50 per M. cubic feet

SCHEDULE "B."

Agricultural Power.

Character of service.

The rates named herein apply to all gas consumed by internal combustion engines in connection with farm operations.

Rates.

Demand charge, per year, \$12. Payable during first two months of season.

	For 4,000 cu. ft. or less per horsepower in any calendar month	For all gas in excess of 4,000 cu. ft. per horsepower in any calendar month
During the first two consecutive months' use in any calendar year.....	\$.55 per M cu. ft.	\$.50 per M cu. ft.
During the third and fourth consecutive months' use in any calendar year.....	.50 per M cu. ft.	.45 per M cu. ft.
During the fifth and sixth consecutive months' use in any calendar year.....	.45 per M cu. ft.	.40 per M cu. ft.
During any period in excess of six consecutive months' use in any calendar year.....	.40 per M cu. ft.	.35 per M cu. ft.

The company's proposed rates for agricultural power service approximate those in effect in other territories where natural gas is supplied for gas engine operation.

The franchise under which the company desires to operate was granted to Mr. C. B. Colby on December 11, 1915, by the board of supervisors

of Kern County and was transferred by Mr. Colby to Valley Natural Gas Company on December 12, 1915. It gives the company the right to lay pipes for the transmission, distribution, and supplying of gas for light, heat, power and all other lawful purposes along a particularly described section of the county road connecting Wasco and Bakersfield, and the public roads and highways connecting or intersecting the highway above described or which connect or intersect any such connecting or intersecting highways, not to exceed ten miles either way.

The franchise is granted for a period of fifty years and requires that after five years the company shall pay to the county 2 per cent of its gross earnings. The cost of the franchise was the sum of \$50.00, and the company is under bond in the sum of \$250.00 for the faithful performance of its obligations.

There is no other gas company supplying gas in this territory and the only utility that may be considered as in any way competing is the San Joaquin Light and Power Corporation, which serves several pumping plants with electric power. However, the majority of plants in this territory are gas engine driven and it appears that there will be no real duplication of investment.

It further appears that the territory to be served will be benefited by the construction of the gas distribution system and that public convenience and necessity will be served by the sale of natural gas in this territory. The application was not opposed and we are of the opinion that this application should be granted, subject, however, to the terms of the following order.

ORDER.

C. B. Colby having applied to this Commission for permission to assign to the Valley Natural Gas Company, a corporation, a certain franchise granted by the board of supervisors of the county of Kern to C. B. Colby on the 11th day of December, 1915, and Valley Natural Gas Company having applied to this Commission for a certificate that the present and future public convenience and necessity require, and will require, the construction of a gas transmission and distribution system in Kern County under a franchise granted by the board of supervisors of said county on December 11, 1915, and a hearing having been held, and it appearing to this Commission that applicant's request is reasonable and should be granted,

It is hereby ordered that permission be and the same is hereby granted to C. B. Colby to assign unto Valley Natural Gas Company, a corporation, that certain franchise granted by the board of supervisors of the county of Kern to C. B. Colby on the 11th day of December, 1915.

The Railroad Commission of California hereby declares that public convenience and necessity require the exercise by Valley Natural Gas Company of the rights and privileges conferred by Ordinance No. 115

of the county of Kern, adopted December 11, 1915; provided, that Valley Natural Gas Company shall first have filed with the Railroad Commission a stipulation, duly authorized by its board of directors, declaring that Valley Natural Gas Company, its successors and assigns, will never claim before the Railroad Commission or any court or other public body, a value for said rights and privileges in excess of the actual cost to Valley Natural Gas Company of acquiring said rights and privileges, which cost is represented by Valley Natural Gas Company to have been \$50.00, and shall have received from the Railroad Commission a supplemental order declaring that such stipulation, in form satisfactory to the Railroad Commission, has been filed with the Railroad Commission.

Dated at San Francisco, California, this 16th day of February, 1916.

DECISION No. 3105.

IN THE MATTER OF THE APPLICATION OF TUJUNGA WATER AND POWER COMPANY FOR PERMISSION TO ISSUE TWO HUNDRED SEVENTY SHARES OF TREASURY STOCK IN EXCHANGE FOR A LIKE NUMBER OF SHARES CANCELED, SAME HAVING BEEN ISSUED WITHOUT AUTHORITY.

Application No. 2024.

Decided February 16, 1916.

Applicant applies for permission to issue \$27,000.00 par value of its capital stock to W. P. Reynolds in lieu of stock heretofore issued without authorization, and failing to make an adequate showing as to the services rendered by Mr. Reynolds, for which the stock is to be issued, application denied without prejudice.

F. E. Davis, for Applicant.

REPORT OF THE COMMISSION.

In this application, Tujunga Water and Power Company asks for an order authorizing it to issue \$27,000.00 par value of capital stock to W. P. Reynolds in lieu of a like amount of stock issued to Mr. Reynolds on October 24, 1913, without the authority of the Commission.

Section 52 (d) of the Public Utilities Act provides that all stock and every stock certificate and every bond, note or other evidence of indebtedness of a public utility issued without an order of the Railroad Commission authorizing the same shall be void.

Tujunga Water and Power Company issued the \$27,000.00 par value of stock to Mr. Reynolds for services rendered in connection with certain land and water transactions. Recently the property of the applicant has been acquired by the Union Oil Company of California at an execution sale to satisfy a judgment for two hundred ninety-eight and 53/100 (\$298.53) dollars, together with interest and costs.

Tujunga Water and Power Company contends that the judgment is invalid and states that it will endeavor to have it set aside and in any event that it proposes to redeem the property.

The applicant has failed to make a clear and adequate showing as to the value of the services rendered by Mr. Reynolds for which it now proposes to issue the \$27,000.00 par value of stock.

Under these circumstances we believe that the application should be denied without prejudice.

ORDER.

Tujunga Water and Power Company having applied to this Commission for authority to issue 270 shares of its capital stock of the par value of one hundred (\$100.00) dollars per share, and a hearing having been held and it appearing for the reasons stated in the foregoing opinion that said application should be denied.

It is hereby ordered that the same be and it is hereby denied without prejudice.

Dated at San Francisco, California, this 16th day of February, 1916.

DECISION No. 3106.

IN THE MATTER OF THE APPLICATION OF NORTHWESTERN PACIFIC RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF FIVE MILLION FIVE HUNDRED THIRTY-FOUR THOUSAND DOLLARS.

Application No. 1044.

Decided February 16, 1916.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas this Commission, on April 11, 1914, in Decision No. 1428 (Vol. 4, Opinions and Orders of the Railroad Commission of California, p. 751), authorized Northwestern Pacific Railroad Company to issue \$5,534,000.00 of its first and refunding 4½ per cent 50-year gold bonds for the purposes therein stated; and

Whereas among the purposes for which applicant was authorized to issue said bonds was the acquisition of equipment and rolling stock as specified in Exhibit "F" attached to applicant's petition; and

Whereas in Exhibit "F" appeared the item "100 flat cars, wood, logging, 80,000 pounds capacity"; and

Whereas applicant now proposes to substitute for said item "50 steel gondolas of 100,000 pounds capacity"; and

Whereas it appears that said substitution should be authorized; and

Whereas applicant reports that it has not yet issued all of the bonds authorized to be issued for the purchase of equipment in the sum of \$1,236,700.00; and

Whereas the applicant requests that it be given an extension of time for one year in which to issue said bonds to purchase said equipment, in the sum of \$1,236,700.00,

It is hereby ordered that applicant be given authority and it is given authority to use the proceeds from the bonds heretofore authorized to be issued in Decision No. 1428 for the purchase of "100 flat cars, wood, logging, 80,000 pounds capacity" for the purchase of "50 gondolas of 100,000 pounds capacity."

It is further ordered that the time in which applicant may issue the bonds heretofore authorized to purchase equipment as specified in Decision No. 1428 in the sum of \$1,236,700.00 be extended and it is hereby extended to December 31, 1916.

Dated at San Francisco, California, this 16th day of February, 1916.

DECISION No. 3107.

IN THE MATTER OF THE APPLICATION OF C. L. SMITH, DOING BUSINESS UNDER THE STYLE AND FIRM NAME OF VISTA GRANDE WATER COMPANY FOR PERMISSION TO ABANDON SERVICE BY SAID COMPANY.

Application No. 2071.

Decided February 16, 1916.

Applicant, serving water for domestic purposes in Daly City, applies for permission to abandon service and upon its showing that the municipal plant is absorbing all its patrons and that it is operating at a considerable loss, application granted, to become effective thirty days after applicant shall have served notice of discontinuance upon its patrons and creditors.

C. M. Wooster, for Applicant.

William J. Locke, for Daly City.

REPORT OF THE COMMISSION.

Applicant herein seeks permission to discontinue operation of its public utility in Daly City, San Mateo County.

A public hearing was had in the matter at San Francisco on February 11, 1916. Evidence was submitted by the applicant showing that during the year 1915 the receipts of the company were approximately \$1,200.00 less than necessary operating expenses. Further testimony was offered to the effect that a water utility owned by the city of Daly City has laid pipes, which, in every street, parallel those of applicant,

and that the consumers are gradually withdrawing their support from the Vista Grande Water Company and connecting with the mains of the municipal plant, the municipal plant serving water at a less rate than the applicant. Wherefore, the public can not in any particular be injured by granting the permission sought, although ample time should be given its present consumers to make connections with the municipal plant before service to them by the applicant be discontinued.

Subsequent to the hearing it has been brought to the attention of the Commission that in the prosecution of certain street work in Daly City the immediate removal of certain of applicant's mains and resultant discontinuation of service by it has been made unavoidable. Formal presentation of these matters may make a modification of the order herein necessary as to notice of discontinuance of service on certain streets.

ORDER.

C. L. Smith, a public utility doing business under the style and firm name of Vista Grande Water Company, having made application for permission to abandon service as such public utility, and a public hearing having been held thereon,

It is hereby ordered that permission be and the same is hereby given said C. L. Smith, doing business under the style and firm name of Vista Grande Water Company, a public utility, to abandon its service and operation of such utility, effective thirty days after the applicant herein shall have filed with this Commission an affidavit showing that it has served each of its consumers and creditors with notice of this order.

Dated at San Francisco, California, this 16th day of February, 1916.

DECISION No. 3108.

IN THE MATTER OF THE APPLICATION OF NORTHWESTERN PACIFIC RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF ONE MILLION EIGHT HUNDRED SIXTY-SEVEN THOUSAND DOLLARS.

Application No. 2074.

Decided February 16, 1916.

Applicant having expended the sum of \$1,505,382.16 on account of construction of its extension from Willits to Shively, and the sum of \$268,427.77 for equipment, additions and betterments to its entire system, applies for permission to issue \$1,867,000.00 face value of its 4½ per cent 50-year bonds to be sold at not less than 95, for the purposes of reimbursing its treasury covering above expenditures. After review of applicant's earnings and expenses during the

period covered by the last several years, which statements show a marked increase in revenues since the opening of the extension above mentioned, application granted.

Stanley Moore, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

In the application herein Northwestern Pacific Railroad Company petitions for authority to issue and sell \$1,867,000.00 of its first mortgage 4½ per cent 50-year gold bonds. It proposes to sell these bonds at 95 per cent of their face value, to the Southern Pacific Company, owner of one-half of its stock, under the terms of a contract by which the Southern Pacific has obligated itself to pay that sum for a specified number of the applicant's bonds.

From the proceeds of this sale, Northwestern Pacific Railroad Company sets forth that it would realize \$1,773,650.00 which it intends to apply as follows:

To the reimbursement of its treasury for moneys expended on account of construction of its new line from Willits, Mendocino County, to Shively, Humboldt County, during the period from October 1, 1914, to October 1, 1915-----	\$1,505,382 16
For the reimbursement of its treasury for moneys expended generally on its system and equipment for additions and betterments during the period from February 1, 1914, to October 1, 1915-----	268,427 77
Total-----	<u>\$1,773,809 92</u>

In support of its application, Northwestern Pacific Railroad Company introduced detailed statements showing the items for which the above sum of \$1,773,809.92 was expended.

Northwestern Pacific Railroad Company has been engaged in the construction of an extension of its line of railway from Willits to Shively, a distance of 106 miles, which will serve the purpose of connecting Eureka, Humboldt County, by rail with San Francisco, and thence with all other important centers reached by railway transportation lines. The cost of this extension to June 30, 1915, is given as \$14,346,584.92. It is estimated that the extension will cost, completed, somewhat in excess of \$15,000,000.00, or a total of approximately \$142,000.00 per mile. This cost somewhat exceeds the company's earlier estimates and has been occasioned by unusual and unexpected engineering difficulties.

It appears from the testimony of Mr. J. W. Williams, the chief engineer of the applicant, that the construction difficulties have been enhanced by slides and by the inroads of the Eel River. The railway traverses the canyon of the Eel River. On one side the soil is easily disintegrated and its frequent shifting has required an unexpected

amount of grading to obtain stable conditions. On the other side of the track the Eel River has, through the winter months, risen from a small stream to a troublesome torrent of forty feet in depth. This has necessitated extensive filling and riprapping to protect the embankments. The Northwestern Pacific Railroad Company has also found it advisable to widen cuts and to line certain of its tunnels with concrete, thus entailing heavier expenditure than was contemplated in the original estimates. The company's officials expressed the belief that the engineering difficulties had been largely overcome. They submitted a statement estimating that it will require only about \$180,000.00 to complete in final form the new line of railway.

In support of its application, Northwestern Pacific Railroad Company submitted the following statement, comprising its expenditures in the sum of \$1,505,382.16 on the Willits-Shively extension, for which it now requests reimbursement:

Engineering	\$82,850 53
Land for transportation purposes.....	11,256 49
Grading	985,401 40
Tunnels and subways	192,243 53
Bridges, trestles and culverts	124,212 30
Ties	1,742 21
Rails	4,327 23
Other track material	—256 23
Ballast	50,980 57
Tracklaying and surfacing	68,649 24
Right of way fences	13,909 80
Crossings and signs	1,518 63
Station and office buildings.....	15,552 91
Water stations	21,462 65
Fuel stations	720 79
Shops and engine houses	257 41
Telegraph and telephone lines.....	12,734 33
Signals and interlockers	2,971 45
Miscellaneous structures	77 02
Roadway machines	240 86
Roadway small tools.....	38 49
Revenues and operating expenses during construction.....	—11,910 35
Unapplied construction material and supplies.....	—37,846 62
Work equipment	9,963 06
Taxes	754 78
Other expenditures—general	905 09
Total.....	\$1,561,757 57
Less amount included above and for which issue of bonds was requested in application to Farmers' Loan and Trust Company, dated October 2, 1915, approved by the Railroad Commission, State of California, April 11, 1914.....	56,375 41
Net total.....	\$1,505,382 16

The main item of expense has been grading, in the sum of \$985,401.40. This expenditure has been made necessary as heretofore explained by the disintegrating character of a portion of the country

through which the railway travels. The tunnel, subway, bridge, trestle and culvert work has been required to place the line in dependable operating condition.

The auditing department of the Commission has reported that the applicant's books show the expenditure of a sum, as stated in the report, of \$1,505,382.16. The details comprising the sum of \$268,427.77 have been reported by the applicant in Exhibit "F" attached to the application. This sum is made up of \$256,287.81, representing general betterments, and the balance representing net additions and betterments to equipment. The sum of \$256,287.81 comprises the following items:

Engineering	\$1,587 22
Land for transportation purposes.....	8,809 73
Grading	77,799 99
Tunnels and subways	226 01
Bridges, trestles and culverts	7,524 77
Ties	2,531 59
Rails	23,790 32
Other track material	23,031 39
Ballast	15,855 75
Tracklaying and surfacing	9,461 59
Right of way fences	1,688 00
Crossings and signs	5,345 66
Station and office buildings	20,327 78
Roadway buildings	—191 40
Water stations	—2,247 97
Fuel stations	10,114 36
Shops and engine houses	425 89
Wharves and docks	25,274 44
Telegraph and telephone lines.....	188 42
Signals and interlockers	10,184 86
Power distribution systems	5,229 79
Paving	525 79
Roadway machines	4,977 00
Assessments for public improvements	2,168 09
Shop machinery	1,106 94
Power plant machinery	551 80
Total.....	\$256,287 81

It has been, of course, highly beneficial to the State of California and to the public generally that the Northwestern Pacific Railroad Company has constructed the Willits-Shively line. It has served to open a large portion of the State of California which has heretofore been without railway communication. It has made accessible large tracts of valuable agricultural, range and timber lands; it has opened and developed a region abounding in majestic scenery; and it has served to connect Eureka, a city of approximately 15,000 inhabitants, by rail with the outside world.

The stock of Northwestern Pacific Railroad Company is owned equally by the Southern Pacific Company and The Atchison, Topeka and Santa

Fe. The Willits-Shively extension has been financed through the sale of the company's bonds at 95 per cent of face value to the Southern Pacific, an arrangement advantageous to the applicant. These bonds are held in the treasury of the Southern Pacific and have not yet been given a general market.

This Commission has not completed a valuation of the properties of the Northwestern Pacific Railroad Company and it is not possible, therefore, to state or to estimate the value of the company's assets. The company, however, has submitted the following general statement:

Total value of 405,296 operated miles, June 30, 1912	\$26,464,938 00	
Additions and betterments to June 30, 1914.....	680,073 30	
Nonoperating property not included in above.....	571,132 00	
<hr/>		
Total as of June 30, 1914.....		\$27,716,143 30
Total cost of Willits-Shively line to June 30, 1915	\$14,346,584 92	
Total cost of Healdsburg-Wendling line, excluding Floodgate and Mill Creek extensions to June 30, 1915	223,333 88	
Cost of additions and betterments, July 1, 1914, to June 30, 1915.....	656,490 72	
<i>General Expenditures.</i>		
Cost of filing articles of incorporation, etc.	\$40,057 70	
Less sundry credits account of property retired, etc.	36,345 02	3,712 68
		15,230,122 20
<hr/>		
Total cost to June 30, 1915.....		\$42,946,265.50
506.8 miles main track.		
663.4 miles all tracks.		
<i>Funded Debt Outstanding.</i>		
Northwestern Pacific Railroad Company's first and refunding mortgage bonds.....	\$21,945,000 00	
San Francisco and North Pacific Railway Company's first mortgage bonds.....	3,669,000 00	
California Northwestern Railway Company's first mortgage bonds	941,000 00	
Northwestern Pacific Railroad Company's first and refunding mortgage bonds in treasury....	324,000 00	
<hr/>		
		26,879,000 00
<hr/>		
Excess over funded debt.....		\$16,067,265 50

I shall not undertake in this decision to pass on this statement, but set it down here merely as the company's own estimate.

On April 11, 1914, in Application No. 1044, this Commission authorized the applicant herein to issue \$5,534,000.00 of its 4½ per cent 50-year refunding bonds (Decision No. 1428, Opinions and Orders of the Railroad Commission of California, Vol. 4, p. 751). In that opinion the Commission passed generally upon the financial condition of this applicant. It is important, however, in this proceeding to analyze the

earnings of the Northwestern Pacific Railroad Company in the light of the obligations it has assumed and will assume through the issue of additional bonds.

For the fiscal years ending June 30, 1914, and June 30, 1915, the company submitted the following earnings statement:

	1914	1915
Surplus beginning of year.....	\$2,130,249 40	\$2,453,895 40
Rail operations:		
Operating revenues	\$3,745,804 70	\$3,568,701 36
Operating expenses	2,653,359 02	2,599,193 53
Net operating revenue.....	\$1,092,445 68	\$969,507 83
Taxes accrued	182,852 29	190,489 33
Operating income	\$909,593 39	\$779,018 50
Other income:		
Rent from lease of road.....		
Other rents	\$101,790 84	\$128,987 43
Interest and dividends.....	260 12	34 02
Miscellaneous	659 30	135,190 82
Total other income.....	\$102,710 26	\$164,212 27
Gross corporate income.....	\$1,012,303 65	\$943,230 77
Deductions:		
Bond interest	\$569,030 35	\$580,836 10
Other interest		2,704 53
Rents	56,969 06	92,342 02
Miscellaneous	19,080 00	7,963 55
Total deductions	\$645,079 41	\$683,846 20
Net corporate income.....	\$367,224 24	\$259,384 57
Appropriations for sinking fund.....	39,743 75	39,775 96
Deductions for year from profit and loss.....	16,136 32	16,048 21
Additions for year to profit and loss.....	12,301 83	2721,674 56
Surplus at end of year.....	2,453,895 40	3,379,130 36

¹Includes \$35,176.47 interest charged to construction.

²Includes \$679,615.00 temporarily credited to profit and loss because of payment of bonds.

For the six months ending December 31, 1915, the applicant submitted the following analysis of its earnings:

Operating income.

Railway operating revenues	\$2,386,216 30
Railway operating expenses	1,399,781 08
Net revenue from railway operations.....	986,435 22
Railway tax accruals.....	\$102,987 00
Uncollectible railway revenues	316 71
Railway operating income	\$883,131 51

Nonoperating income.

Rent from locomotives	\$13,452 50
Rent from passenger train cars	98 70
Rent from floating equipment	1,120 00
Rent from work equipment	7,011 31
Joint facility rent income	45,452 19
Miscellaneous rent income	472 07
Income from unfunded securities and accounts	325 96
Income from sinking and other reserve funds	7 94
Miscellaneous income	102 50

Total nonoperating income **\$68,043 17**

Gross income **\$951,174 68**

Deductions from gross income.

Hire of freight cars—debit balance	\$26,835 07
Rent for passenger train cars	389 92
Rent for work equipment	1,261 58
Joint facility rents	18,304 30
Miscellaneous rents	9,961 00
Interest on funded debt	615,662 51
Amortization of discount on funded debt	12,061 89

Total deductions from gross income **\$684,476 27**

Net income **\$266,698 41**

Disposition of net income.

Income applied to sinking funds **19,991 23**

Income balance—credit **\$246,707 18**

The company also submitted a comparative analysis for the last six months of the calendar year 1914 and the last six months of the calendar year 1915. This statement follows:

	Operated mileage	Railway operating revenue	*Railway operating expenses	Net	Increase of net 1915 vs. 1914	Per cent of net	Operating ratio
July, 1914	401	\$128,798	\$232,917	\$195,881	\$31,854	16.3	54.3
July, 1915	507	462,502	234,767	227,735			50.7
August, 1914	401	404,445	233,499	170,946	43,385	25.4	57.7
August, 1915	507	456,831	242,500	214,331			53.0
September, 1914	401	369,457	237,796	131,661	47,257	35.9	64.4
September, 1915	507	416,063	237,145	178,918			57.0
October, 1914	401	311,919	245,224	96,695	87,776	90.8	71.7
October, 1915	507	420,948	236,477	184,471			56.2
November, 1914	401	274,820	223,694	51,126	66,736	130.5	61.4
November, 1915	507	345,271	227,409	117,862			65.8
December, 1914	401	227,689	204,602	23,087	40,030	173.4	89.9
December, 1915	507	284,600	221,483	63,117			77.8
Total, 1914	401	\$2,047,128	\$1,377,732	\$669,396	\$317,038	47.4	67.3
Total, 1915	507	\$2,386,215	\$1,399,781	\$986,434			58.7
(6 months)							

*Exclusive of taxes.

The statement of earnings for the six months ending June 31, 1915, is particularly important, as the Willits-Shively extension was placed on an operating basis on July 1, 1915. It appears from the company's comparative analysis that its net earnings for the last six months of the calendar year 1915 exceeded those for the similar period of 1914 by \$317,038.00, reflecting a gain of 47.4 per cent in net. This also entailed a reduction in operating ratio for the same period from 67.3 per cent to 58.7 per cent. It is somewhat early to judge of the traffic and revenue results of the Willits-Shively extension, but Mr. W. S. Palmer, president of the Northwestern Pacific Railroad Company, estimated an increasing lumber business and an augmented passenger travel.

Much of the country through which the extension passes is sparsely settled and productive of little freight. However, big timber holdings at the northern end of the line promise a remunerative business. Passenger travel is in initial stages of development, the company operating one through passenger train daily each way between San Francisco and Eureka.

Mr. W. S. Palmer, the company's president, estimated that the company should earn for the year 1916, \$1,300,000.00 net revenue after deducting operating expenses and taxes. He further figured the interest requirements at \$103,000.00 per month, and estimated that the company would earn a profit of \$170,000 for the year.

It would appear that Mr. Palmer's estimates are conservative in the light of the company's actual earnings for the second half of the calendar year 1915.

The auditing department of the Commission has checked the statements of the company and has reported that the amounts have been expended for additions and betterments in the sums submitted in the application herein.

I therefore recommend that the application be granted and submit the following form of order:

ORDER.

Northwestern Pacific Railroad Company having applied to the Railroad Commission of California for an order authorizing the issue by said company of its first and refunding gold bonds of the face value of \$1,867,000.00, said bonds to be payable on March 1, 1957, and to bear interest at the rate of $4\frac{1}{2}$ per cent per annum, payable semiannually, under and in pursuance of a deed of trust or mortgage from Northwestern Pacific Railroad Company to The Farmers' Loan and Trust Company, trustee, dated March 1, 1907, and a public hearing having been held upon said application and the Commission finding that the money to be procured by the issue of said bonds is reasonably required by said company for the reimbursement of moneys actually expended from income for proper capital purposes; and that said purposes are

not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Northwestern Pacific Railroad Company be authorized and it is hereby authorized to issue and sell \$1,867,000.00 face value of principal of bonds of said company maturing March 1, 1957, bearing interest at the rate of $4\frac{1}{2}$ per cent per annum, payable semiannually on the first day of March and on the first day of September of each and every year until the payment of the principal sum, under and in pursuance of the terms of its deed of trust or mortgage to The Farmers' Loan and Trust Company, trustee, dated March 1, 1907, upon the following conditions and not otherwise, to wit:

(1) Northwestern Pacific Railroad Company shall sell said bonds hereby authorized so as to net said company not less than 95 per cent of the face value thereof, together with accrued interest thereon.

(2) Northwestern Pacific Railroad Company shall apply the proceeds from the sale of said bonds to the following purposes and not otherwise:

(a) For the reimbursement of applicant's treasury for moneys actually expended from income for the payment of new construction on applicant's line of railway from Willits to Shively in the period October 1, 1914, to October 1, 1915, inclusive, in the total sum of \$1,505,382.16, as set forth in the opinion preceding this order and as submitted by applicant as Exhibit "D," attached to the petition herein.

(b) For the reimbursement of moneys actually expended from income for the payment of additions and betterments upon the applicant's line of railway and upon applicant's equipment from February 1, 1914, to October 1, 1915, inclusive, as set forth in applicant's Exhibit "F," attached to the application herein, in the sum of \$268,427.77.

(3) Northwestern Pacific Railroad Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(4) The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

(5) The authority herein granted shall apply to such bonds as shall have been issued on or before December 31, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 16th day of February, 1916.

DECISION No. 3109.

IN THE MATTER OF THE APPLICATION OF LOMPOC WAREHOUSE
COMPANY FOR AN ORDER AUTHORIZING THE MORTGAGING OF
ITS PROPERTY.

Application No. 2067.

Decided February 21, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Lompoc Warehouse Company having on February 19, 1916, made written request to this Commission that this application be dismissed,

It is hereby ordered that this application be and the same is hereby dismissed.

Dated at San Francisco, California, this 21st day of February, 1916.

DECISION No. 3110.

IN THE MATTER OF THE APPLICATION OF EMPIRE TELEPHONE
COMPANY FOR AUTHORITY TO ISSUE STOCK.

Application No. 2058.

Decided February 21, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Empire Telephone Company having applied to this Commission for authority to issue stock, and a hearing having been held and applicant having at such hearing asked that this application be dismissed,

It is hereby ordered that this application be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 21st day of February, 1916.

DECISION No. 3111.

IN THE MATTER OF THE APPLICATION OF COACHELLA WATER COMPANY FOR PERMISSION TO EXCHANGE CERTAIN OF ITS PROPERTY AT COACHELLA, WITH JOHN R. HOLLIDAY AND BENJAMIN A. HOOK FOR CERTAIN PROPERTY OWNED BY THEM.

Application No. 2063.

Decided February 21, 1916.

Applicant's present source of water being inconveniently situated and the pressure very inadequate, it applies for permission to transfer certain of its property to Messrs. Holliday and Hook in exchange for a more suitable site owned by the latter, and it appearing that such exchange would better the service of applicant, application granted.

Frank L. Miller, for Applicant.

REPORT OF THE COMMISSION.

Applicant seeks authority of the Railroad Commission to exchange certain of its property for certain other property which it believes will enable it to better serve its patrons with domestic water at Coachella.

Applicant's system consists of a 4-inch artesian flowing well located on a ten-acre lot over three-quarters of a mile from the business center of Coachella. The water issues from the ground at an elevation about 16 feet higher than the average elevation of the town. Applicant has no storage facilities. The water is not lifted before passing directly into the transmission and distributing pipes. The result is poor pressure and inadequate fire protection. Several disastrous fires have occurred.

The well was put down about twelve years ago to develop water for irrigation of the ten-acre lot, at a cost of about \$1,052.00. About 1908 it was transferred to applicant, which was organized to furnish domestic water to the inhabitants of the town of Coachella. Originally the well flowed about 15 miner's inches, but this flow has gradually decreased until now it is about 5 miner's inches.

Accurate information concerning the system is not available owing to the absence of those who constructed it, and the absence of complete records. Pipes are laid in the principal streets of the town and connected with the well. It is said the transmission pipe is 6-inch steel riveted dipped pipe, while the distributing system consists of 6-inch, 4-inch and 2-inch mains. Water is served through some forty to forty-five services without meters. Rates are \$1.50 per month for residences and \$2.00 per month for business establishments. The stock of applicant has been owned by nonresidents, and for several years there has been no representative of applicant resident in Coachella looking after its affairs.

A number of fire hydrants have been installed, but these have frequently been left open and the water wasted. They have also frequently been used for sprinkling the streets. The company has derived no revenue from them. A great deal of the revenue which it should have derived from private installations has been lost to the utility through lax collecting methods. For lack of data it has been found impossible to determine the earnings or expenses of the system.

The Coachella Water Company was incorporated March 28, 1908, for the purposes of supplying to the inhabitants of Coachella and other portions of Riverside County water for domestic, irrigation and manufacturing purposes. Its authorized capital stock is \$15,000.00, divided into 150 shares of the par value of \$100.00 each. All of its stock is issued and now outstanding. Through indebtedness of the former stockholders to the First National Bank of Banning, the stock has passed to the ownership of J. M. Westerfield, president of the bank, and others, by whom it is now held for the benefit of the bank. Neither the bank nor the present stockholders are so situated that they can properly or economically manage the water plant. It is too small to justify much overhead expense in management.

John R. Holliday and Benjamin A. Hook, who join in the application, have resided for many years at Coachella, where they are partners in the conduct of a machine shop and plumbing business. Mr. Holliday is also actively engaged in the business of drilling wells. After his house recently burned, with no water available, he determined to sink a well and put in a suitable water system. The well was finished about two months ago, on Lot 9, in the rear of the machine shop. It is 620 feet deep and about 200 feet is cased with 6-inch casing and the remainder with 4½-inch casing. The well flows from 4 to 6 miner's inches of water in the winter time but will not flow in the summer. It readily develops 15 miner's inches of water by pumping, and it was testified that by placing a 30-inch capacity pump in a pit 20 or 25 feet deep it would probably develop 45 miner's inches of water.

Messrs. Holliday and Hook offer to deed to the water company lots 9, 10, and 11, described in the order, fronting 150 feet on Cantaloupe avenue by a depth of 125 feet, with the well; to construct thereon a tank tower not less than 30 feet high, which will equal or exceed the height of the tallest building in Coachella, strong enough to safely carry 10,000 gallons of water, anchor it to concrete footings, place on it a 10,000-gallon galvanized iron covered tank, and install a centrifugal pump size number 3 or larger, connect it with by-pass directly to the mains so that it can be used for increased pressure in case of fire, and to install an electric motor large enough to pump 30 miner's inches of water. They offer to take in payment, applicant's 10-acre tract described in the

order, with its well, together with the transmission pipes leading from said well to Vine avenue in Coachella.

The parties further agree that subsequently Messrs. Holliday and Hook will acquire from the present holders 100 shares of the water company's stock in exchange for the 10 acres of land and the pipe lines and will purchase the remaining 50 shares for \$1,500.00 in cash, thus becoming sole owners of the plant and business. The plant will have the benefit of local active management.

All of the water company's stock has been offered for sale by its present holders at \$30.00 per share, or \$4,500.00. The value of the 10-acre tract with the present well is stated to be about \$3,000.00. The value of the transmission pipe was not shown. The value of the three town lots and the estimated cost of the equipment is stated by Mr. Holliday as follows:

Three lots -----	\$900
Machine shop building (cost two years ago in April) -----	800
Cement floor later installed -----	250
Mr. Hook's residence on lots (cost two years ago \$500 to \$600) -----	500
Well cost -----	750
10,000-gallon tank (estimated) -----	220
Tower with foundation (estimated) -----	150
Pump 30-inch capacity with motor (estimated) -----	150
Total -----	<u>\$3,720</u>

The proposed exchange offers a good solution of an unfortunate situation. We therefore grant the application.

ORDER.

Coachella Water Company having applied to the Railroad Commission of the State of California for authority to exchange certain of its property for certain other property to better enable it to serve the inhabitants of Coachella with domestic water,

And a public hearing having been held thereon and the Commission being now fully advised,

It is hereby ordered by the Railroad Commission of the State of California that authority be and it is hereby granted to the Coachella Water Company to execute and deliver a deed in the form of deed attached to the application as an exhibit, conveying to John R. Holliday and Benjamin A. Hook, or their assignees, free of encumbrance, the property described in said deed, as follows:

All that certain real property situate in the county of Riverside, State of California, and more particularly described as follows, to wit:

The east half (E. $\frac{1}{2}$) the east half (E. $\frac{1}{2}$) of the southwest quarter (S.W. $\frac{1}{4}$) of the northeast quarter (N.E. $\frac{1}{4}$) of section six (6), township six (6) south, range eight (8) east, San Bernardino base and meridian, as shown by United States Government survey;

excepting therefrom the portion included in the public road on the north side thereof. Also excepting a strip twenty feet wide for road purposes, off the south side thereof.

Together with the well thereon located and the pipe line leading from said well to Vine avenue, in Coachella, Riverside County, California.

Provided said Coachella Water Company receive at or before the time of delivery of said deed, grant deed in the form of deed attached to the application as an exhibit, but reciting the names of the respective wives of grantors, if married, and executed and acknowledged by said John R. Holliday and Benjamin A. Hook and their respective wives, if married, conveying good title to Coachella Water Company free of encumbrance, to the real property situated in the county of Riverside, State of California, described in said deed attached to the application as an exhibit, as follows:

All that real property situated in the county of Riverside, State of California, described as follows:

Lots nine (9), ten (10), and eleven (11), in block twenty-four (24), of Coachella, as shown by map on file in Book Six (6), on page forty-nine (49) of Maps, records of Riverside County, California, with appurtenances.

Provided further, that at or before the time of delivery of said deed by Coachella Water Company conveying its property, there is constructed, erected and installed on said lots 9, 10, and 11, or either of them, a tank tower not less than 30 feet high and strong enough to carry 10,000 gallons of water and firmly anchored to concrete footings; that there is placed thereon a galvanized iron covered tank with a capacity of 10,000 gallons of water; that there is installed a centrifugal pump, size number 3, or larger, connected with a by-pass directly into the water mains now laid in the streets of Coachella; that there is also installed an electric motor large enough to pump at least 30 miner's inches of water into said tank when placed upon said tank tower, said pump, tank and mains to be connected by suitable pipes and fittings. The residence and machine shop building now upon said three lots are to be conveyed with them and possession thereof delivered to the Coachella Water Company.

The authority hereby given is subject to the following conditions:

(1) There shall be no interruption of service of water owing to the exchange of said properties; said tank installed and by-pass to be connected with said mains in the streets of Coachella and water flowing therein from said tank installed upon said tower before the company's well and transmission pipes are disconnected.

(2) Coachella Water Company shall satisfy itself before delivering deed to be executed by it that it is receiving good title to said lots 9, 10, and 11.

(3) The authority hereby given to convey and acquire property shall not be considered before this Commission or any other public authority or tribunal, as representing for rate fixing or other purposes than this present application, the actual value of the property of the Coachella Water Company.

(4) The granting of application to convey and acquire property is for the purpose of this proceeding only and is not intended as an approval of said deeds or either of them as to any other legal requirements to which they may respectively be subject.

(5) The authority hereby granted shall continue only for a period of sixty (60) days from the date of this order.

(6) Coachella Water Company shall report to the Railroad Commission in writing within twenty (20) days after the terms of this order have been fully complied with, reciting the facts that said lots 9, 10, and 11, have been conveyed to it, together with the buildings thereon; that said tower, tank, pump, motor and by-pass have been constructed, erected and installed and connected with the mains now installed in the streets of Coachella and the date when said deed was delivered to it; and also the fact of the execution and delivery of its deed to said Holli-day and Hook and the date thereof.

Dated at San Francisco, California, this 21st day of February, 1916.

DECISION No. 3112.

CITY OF ROSEVILLE

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 890.

Decided February 21, 1916.

City of Roseville attacks as discriminatory the rates of defendant company for electric energy served to consumers in the town of Roseville, and it appearing from the evidence that complainant is not a consumer itself, is not appearing on behalf of any of defendant's consumers, and is attempting to have the rates of defendant increased instead of reduced, complaint dismissed.

James B. Gibson, city attorney, for Complainant.

Charles P. Cutten, for Defendant.

REPORT OF THE COMMISSION.

The complaint of the city of Roseville, a municipality of the sixth class in Placer County, alleges, among other matters, that defendant, Pacific Gas and Electric Company, has been for the last five years, and still is, engaged in the business of supplying the inhabitants of the city

of Roseville with electric energy; that except as to a few of its customers applicant has installed no meters, but is basing its charges upon a system of flat rates; that the charges made by defendant to its customers in the city of Roseville have been made without regard to other customers of the same class and have been unequal, unfair and discriminatory between its customers and users of the same class. The defendant, by its answer, admits that most of its customers in the city of Roseville are being supplied and charged on a flat rate basis, but denies that its rates have been fixed without regard to the charges made to other consumers of the same class; and denies that its charges to its consumers in the city of Roseville have been unequal or unfair or discriminatory between its customers or users of the same class.

A public hearing was held in the city of Roseville on January 14, 1916. From the evidence it appears that the city of Roseville owns and operates an electric distributing system paralleling defendant's system throughout the city. The city's consumers are all metered. The city's rate for lighting and domestic uses is 5 cents per kilowatt hour for the first 100 kilowatt hours, and 3 cents per kilowatt hour in excess of 100 kilowatt hours per month, with no minimum charge; and its power rate is 3 cents flat with a minimum of 50 cents per horsepower per month. The evidence further showed that defendant receives on an average less than 2 cents per kilowatt hour for energy furnished by it in the city of Roseville on a flat rate basis.

It is apparent from the evidence that the city of Roseville is not appearing in behalf of its citizens, as consumers of the defendant, and asking to have the rates established upon a metered basis for the benefit of such consumers; but it is in effect asking this Commission to force the defendant to alter its basis of charges, not because the present rates are too high, but because they are too low.

Not one of the defendant's 200 consumers appeared to protest against the existing rates of the defendant. All of them are apparently satisfied with these rates. In other words, the city of Roseville is not appearing in this case in behalf of any consumers of defendant, nor is it, itself, a consumer. In other words, the city has no relationship to the defendant except that of a competitor of the defendant within the city of Roseville. As far as the defendant's obligations are concerned, the city is an entire stranger to the defendant. If any existing or intending consumers of the defendant desire to complain of defendant, they can easily do so.

Under the facts herein disclosed the complaint should be dismissed.

ORDER.

The city of Roseville having filed a complaint with the Railroad Commission against Pacific Gas and Electric Company, a corporation, requesting this Commission to establish fair and reasonable metered

rates to be charged and collected by defendant, and to order and require defendant to install meters for the purpose of measuring electric energy supplied to its several customers in said city of Roseville, and a public hearing having been held thereon at which both oral and written evidence was introduced, and the Commission finding that complainant's interest is not such as to justify this Commission in entertaining the complaint,

It is hereby ordered that the above entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 21st day of February, 1916.

DECISION No. 3113.

IN THE MATTER OF THE APPLICATION OF COUNTY OF MERCED FOR
AUTHORIZATION PERMITTING THE CONSTRUCTION OF A HIGH-
WAY CROSSING AT GRADE OVER THE TRACKS OF THE ATCHISON,
TOPEKA AND SANTA FE RAILWAY COMPANY ON EL CAPITAN
AVENUE AT BALlico (NOW ALLADIN).

Application No. 1428.

Decided February 21, 1916.

Applicant desires to open what is known as El Capitan avenue in the town of Alladin across the tracks of the Santa Fe railway at grade, and it appearing that the original plans of such crossing should be altered in certain particulars, application granted, provided that the crossing shall be constructed at right angles with the tracks, the railroad company shall relocate a passing track at this point and the crossing shall, within one year, be protected by an automatic flagman, the expense thereof to be borne by applicant.

C. H. McCroy, district attorney, for Applicant.

M. W. Reed, for The Atchison, Topeka and Santa Fe Railway Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This application was filed with the Commission on November 25, 1914, and looks to the opening of a county road known as El Capitan avenue over the tracks of The Atchison, Topeka and Santa Fe Railway Company at the town of Alladin, formerly called Ballico. The town of Alladin has been recently laid out and several thousand acres of the Alladin ranch, of which it was formerly a part, have been divided into small acreage tracts and placed upon the market. The Santa Fe Company's main line traverses the northerly end of this tract in a north-westerly and southeasterly direction and divides the townsite of Alladin so about two-thirds of its area is north and one-third is south of the

track. The roads and streets of the subdivision have been accepted by Merced County as public highways.

Mr. Edgar M. Wilson, a member of the firm which made this subdivision, represented the firm in negotiations with the county and the railway company and before the Commission at the hearing which was held on this matter.

El Capitan avenue has been laid out as a 120-foot boulevard. It extends from Delhi on the Southern Pacific east on a section line to a point near the section line between sections 1 and 6 in the subdivision and there turns north and runs parallel with the north and south section lines to the northerly limit of the subdivision, and beyond, and connects with several east and west county roads. At the site of the proposed crossing it intersects the right of way of the Santa Fe with an angle of 38 degrees at a point a short distance northwest of the center of that company's reservation for station grounds and at a place where there are three tracks; the main line of the Valley Division, a passing track and a team track.

The nearest open public highway crossings on the Santa Fe from this proposed crossing of El Capitan avenue are about four miles in a north-westerly direction and about three miles southeasterly. This long distance from the next adjacent open crossing on either side and the fact that close to the proposed crossing is a private crossing which takes care of such traffic as now uses El Capitan avenue, led the Santa Fe company to concede the necessity for a crossing in this vicinity. The company objected, however, to the crossing as proposed for three reasons; first, because it would divide its station reservation in two parts, making its impossible to properly locate the depot and other facilities there in the future; second, because it would intersect the present passing track approximately in the center so it would be necessary to "cut the crossing" for all freight trains which used the passing track; and third, because the sharp angle of the crossing would create a dangerous situation in the future; much more so than would a right-angled crossing.

I am satisfied that the distance between open crossings in this part of the county is so great that the county should be permitted to open a crossing in this vicinity to amply care for its road traffic and, as a matter of fact, the opening of a crossing at El Capitan avenue will, in effect, be the substitution of a crossing on a county road for a private crossing now extensively used. I do not believe that the crossing should be opened as it has been projected and I agree with the Santa Fe that the sharp angle at which it crosses the track would make it exceedingly undesirable.

Fortunately the lots in the town of Alladin are now in the possession of the land company and this objection to the crossing, as projected,

can be remedied without great expense or difficulty and a right-angled crossing secured by slightly changing the location of El Capitan avenue and moving it a short distance to the northwest. Mr. Wilson, on behalf of the land company, and the representatives of the county, agreed to make this change in the location of the road and it will be made a condition upon which this application is granted.

By a similar readjustment of the roads and by granting the railway company some additional right of way on the southeast end of its present reservation it will be possible for the Santa Fe to relocate its passing track and preserve its station grounds in the same shape to enable it to conveniently locate its depot and other facilities in the future. Mr. Wilson agreed to deed to the railroad company an acreage in this location substantially of the same in area and of the same shape as that section north of the proposed road which will be severed by the construction of the crossing. The Santa Fe on its part agreed to remove the passing track from across the street as soon as this additional right of way is secured, and it has agreed to park the reservation north of El Capitan avenue when the growth of the town makes it reasonable and desirable that this should be done. The removal of the passing track from the crossing will considerably reduce the hazard of accidents at this point, and it will be made a condition in the order. Since this track removal depends upon securing additional right of way that provision will also be made in the order.

The Santa Fe company desires an automatic flagman installed when the road is opened across its track, and the representatives of the company stated that they would be entirely willing to pay for its maintenance after it was once installed. Representatives of the county expressed their willingness to pay for the installation of such a protective device in a year from the date on which the crossing is opened. Since it will probably be some time before El Capitan avenue is improved enough to invite extensive road traffic, a delay of a year in the installation of the protective device is not unreasonable, and I shall recommend that the matter of protecting the crossing be disposed of in accordance with the plan agreed upon by the interested parties.

I recommend the following form of order:

ORDER.

Merced County, California, having applied to the Commission for permission to construct El Capitan avenue across the tracks of The Atchison, Topeka and Santa Fe Railway Company, at Alladin, formerly known as Ballico, Merced County, California, and a public hearing having been held, and it appearing to the Commission that this application should be granted subject to certain conditions hereinafter specified,

It is hereby ordered that permission be and the same is hereby granted the county of Merced to construct El Capitan avenue at grade over the tracks of The Atchison, Topeka and Santa Fe Railway Company, subject to the following conditions, viz:

(1) The crossing shall be constructed at right angles to the tracks of The Atchison, Topeka and Santa Fe Railway Company, in the center of El Capitan avenue, and that street shall be laid out with a center line described approximately as follows: Beginning at a point in the center line of El Capitan avenue, as now located, west of the south line of block 52 or north from that point, thence southwesterly across the tracks of the Santa Fe Company and at right angles to the same, to the center line of the road between blocks "B" and 61, thence southeasterly to the center of El Capitan avenue as now located.

(2) This crossing shall be constructed of a width of not less than twenty (20) feet, with grades of approach not exceeding four (4) per cent, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) The entire expense of constructing this crossing shall be borne by applicant.

(4) The expense of maintaining this crossing between the rails and to a distance of two (2) feet outside thereof shall be borne by the railway company. The expense of maintaining the crossing to a point within two (2) feet of the rails of the railway company shall be borne by applicant.

(5) Applicant shall deed or cause to be deeded to the railway company a strip of land approximately of the same shape and containing the same acreage as that portion of the railway company's reservation lying northerly from the proposed crossing.

(6) The railway company shall remove its passing track from the site of this proposed crossing.

(7) One year from the date of this order, for the protection of this crossing, there shall be installed an automatic flagman of a type approved by the Commission. The expense of installing this flagman shall be borne by applicant, and the expense of its maintenance thereafter in good and first-class condition shall be borne by the railway company.

(8) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of February, 1916.

DECISION No. 3114.
CITY OF ALAMEDA
vs.
PEOPLES WATER COMPANY.

Case No. 617.

Decided February 21, 1916.

Complainant petitions the Commission to compel defendant water company to install hydrants for fire protection in certain specified districts, and to enlarge certain of its mains supplying hydrants at present installed so as to afford better protection. The installations complained of having all been constructed and installed, the remaining matters at issue consist solely of the adequacy of the fire protection rendered.

Held, That this Commission has the power to direct the installation of extensions and to supervise the adequacy of service rendered to consumers; however, section 549 of the Civil Code effects a limitation of this right as regards the adequacy of fire protection service, and though municipalities and individual consumers have the right to contract with water companies for fire protection service, the terms of which contracts the utilities would be obligated to observe, statutory obligations do not compel utilities either to enlarge or extend mains solely for fire protection purposes.

Held, That utilities were not liable for loss by fire prior to the enactment of the Public Utilities Act and as such act did not alter or change the nature of such obligation, this Commission at present has no jurisdiction over the matter herein complained of. Complaint dismissed.

A. F. St. Sure, city attorney, for Complainant.

A. G. Tasheira, for Defendant.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner*.

This action was commenced by City of Alameda, a municipal corporation, filing a complaint with this Commission alleging, among other things, the corporate existence of the municipality, complainant; that defendant is a corporation duly organized and existing under the laws of the State of California and doing business in this State; that for a long time prior to the filing of complaint, defendant has been and now is "engaged in the business of supplying water for domestic, industrial and municipal purposes, including the purpose of fire protection, to the city of Alameda and to the citizens thereof and residents therein and to certain other municipalities within the county of Alameda, State of

California. That defendant is the only public utility furnishing water for any purpose in the city of Alameda." At the hearing, under leave, complainant amended its complaint by further alleging "that defendant has on hand an adequate supply of water for the purposes herein mentioned."

In paragraph IV of the complaint, complainant alleges that during the period referred to in paragraph III thereof (the period during which defendant was so engaged in such business) defendant installed and maintained certain fire hydrants with connecting pipes and mains in and upon the streets of the city of Alameda and has furnished and supplied to complainant, for a valuable consideration, through said hydrants and through its pipes and mains connecting therewith, water for the purpose of protection against fire and for the flushing of gutters and sewers and for the watering of streets.

Paragraph V of said complaint alleges that the city of Alameda is a community having a population of about 25,000, which population is steadily increasing. That in said city new frame dwelling houses have been and are being erected at the average rate of about 300 in each year; that by far the larger part of the new dwelling houses have been constructed and are being constructed upon tracts of land previously unoccupied by any buildings and with respect to which no service of water has been required prior to the erection of such dwelling houses. Complainant alleges that although often requested by complainant, defendant has refused and does now refuse to lay and install mains, pipes and hydrants and to supply and furnish water for purposes of protection against fire in these districts or portions of the city of Alameda in said complaint particularly set forth; alleging further that such requests of complainant have been in all particulars identical with the prayer of said complaint.

Complainant, in paragraph VII of its complaint, alleges that in a portion of the city of Alameda bounded by Central avenue, Burbank street, Portola avenue and Eighth street, there are 52 frame buildings having street frontages, which said buildings are occupied by approximately 260 persons; that defendant has installed a 4-inch water main on Central avenue and that in order to provide adequate fire protection for this portion of the city it is necessary that a 4-inch water main be laid from said main southerly on Burbank street, westerly on Portola avenue and northerly on Eighth street, connecting with said main on Central avenue, and that certain hydrants connecting with said main be installed at points designated in said paragraph VII.

At the hearing, complainant stated that since the complaint was filed the defendant has complied with all demands of complainant contained

and alleged in paragraph VII. There is, therefore, no issue concerning these allegations.

Paragraph VIII of the complaint alleges in substance that in the portion of said city of Alameda bounded by Garfield avenue, High street, Liberty avenue and Fernside boulevard, there are 151 frame buildings having street frontages, which said buildings are occupied by approximately 750 persons. That in order to provide adequate fire protection for the portion of said city in this paragraph referred to, it is necessary that a 6-inch water main be laid in Garfield avenue and in Liberty street from High street to Fernside boulevard, and that a 4-inch water main be laid in Fernside boulevard connecting therewith, and that fire hydrants connecting therewith be installed as follows:

- 1 hydrant 500 feet easterly of High street;
- 1 hydrant at the intersection of Garfield avenue and Fernside boulevard;
- 1 hydrant at the intersection of Liberty avenue and Fernside boulevard;

and also that a 6-inch water main be laid in Central avenue from High street to Fernside boulevard and that fire hydrants connecting therewith be installed as follows:

- 1 hydrant 500 feet from High street;
- 1 hydrant at the intersection of Central avenue and Fernside boulevard,

all as shown on map filed with the complaint.

Paragraph IX of the complaint alleges that all of the portions of said city of Alameda fronting on the streets or portions of streets in said paragraph IX referred to are closely built up and more or less densely populated, and that in order to afford protection against fire in said districts it is necessary that pipes, mains and fire hydrants be installed along and at certain places and points sixteen in number, which places and points are designated from (a) to (p), inclusive.

At the hearing it was stated by complainant that subdivision (d) of paragraph IX, which alleges the necessity of a 6-inch main in Bay street from San Antonio avenue to the southerly end of said street, with a hydrant 600 feet southerly from San Antonio avenue, and also a hydrant at the southerly end of said street, has been partially satisfied inasmuch as the defendant has installed a 4-inch main with hydrants.

A 4-inch main has also been installed with hydrant at the place and point designated in subdivision (k) of said paragraph IX, although the complaint asks for a 6-inch main at this place.

Paragraph X of the complaint alleges that in the streets or portions of streets of said city of Alameda in said paragraph X referred to, water mains have already been installed and are now maintained by defendant, and that in order to afford adequate protection against fire in the districts of said city fronting upon said streets or portions of streets, it is

necessary that the fire hydrants be installed at each of the points or locations set forth in said paragraph X, comprising fourteen in number.

At the hearing complainant stated that hydrants had, since the filing of the complaint, been installed at all of the fourteen points designated in said paragraph X.

Complainant in its prayer asks that defendant be ordered and directed: first, to lay and install water pipes, water mains and fire hydrants in said city of Alameda in each and every location in said complaint set forth; and, second, to supply to complainant for a reasonable compensation through and by means of said water pipes, water mains and fire hydrants, when so laid and installed, all water requisite for protection against fire in the several districts referred to in said complaint under an adequate head or pressure.

The defendant, after due service of a copy of the complaint, filed written objections to said complaint, pointing out the following alleged defects therein, namely, that the matters complained of in said complaint and the relief prayed for therein are matters not within the jurisdiction of this Commission to be heard or passed upon by this Commission, and that said complaint does not establish a *prima facie* or any case to be heard by this Commission, and that it is not within the power or authority of this Commission to grant the relief prayed for.

Thereafter, pursuant to direction from this Commission, defendant filed its answer wherein it alleged that the complaint herein is substantially in effect a complaint against defendant for not having laid and for not maintaining mains of sufficient size to furnish adequate fire protection to complainant. That said complaint nowhere alleges that the supply of water furnished by said defendant to said complainant or the inhabitants thereof is insufficient for domestic purposes.

Defendant also denies that it is under any liability, duty or obligation by reason of the law or otherwise to lay and maintain pipes in the city of Alameda for the purpose of furnishing fire protection to said city or to the inhabitants thereof; and in that behalf defendant alleges that the sole duty and obligation resting upon defendant as a public service corporation and owing by it to the said city of Alameda and to the inhabitants thereof is to furnish a sufficient supply of water for domestic purposes and for no other purpose.

The case was set down for hearing for January 14, 1916. When the matter was called for hearing discussion arose between counsel for the respective parties as to the scope that the hearing should take at this time, it being agreed that if the Commission should conclude that it had no jurisdiction to order the extensions of mains and installation of hydrants for fire protection purposes that it would be idle to have estimates made by engineers and the other attendant work which would be

involved. With this end in view it was stipulated that with the exception of certain evidence which is hereinafter referred to as having been introduced at said hearing, that such hearing be restricted to presentation of the legal questions involved touching the jurisdiction of the Commission in the premises; it being further stipulated that when adjournment of said hearing should be had that it would be with the express understanding that if the Commission should decide that it had no jurisdiction, that final submission of the entire matter would be considered as of the date of adjournment of said hearing of January 14th; if, on the other hand, the Commission, after consideration of the evidence introduced at said hearing and the arguments of counsel, should be of the opinion that it had jurisdiction in the premises that then the matter should be set down for adjourned hearing for the purpose of receiving such additional evidence as might be introduced by the parties and by the Commission.

In my opinion, for the reasons hereinafter stated, this Commission has no jurisdiction to grant the relief prayed for in the complaint, and under the stipulation referred to the matter was finally submitted on said 14th day of January, 1916.

At the hearing it was expressly admitted by counsel for complainant that the supply of water for domestic purposes is sufficient and that there is no complaint at all as to domestic services.

Complainant introduced in evidence copy of Ordinance No. 254, as same appears at page 312 of Ordinance Book No. 1, town of Alameda. Said ordinance reads as follows:

"The people of the town of Alameda do ordain as follows:

SECTION 1. The right is hereby granted to R. R. Thompson and his assigns to lay down and maintain in all or any of the streets of the town of Alameda for the term of fifty years, pipes and conduits and connections therewith for the purpose of supplying the town and its inhabitants with water; *provided*, that such pipes, conduits and connections shall be laid down and maintained under such regulations as the municipal authorities of said town shall from time to time prescribe; *and provided*, that this grant is made upon condition that the said town shall have the right to regulate the charges for water furnished to said town and its inhabitants in accordance with the constitution of the State; *and provided also*, that said Thompson or his assigns shall furnish and connect with said pipes, such reasonable number of hydrants and fire plugs, and at such places as may be prescribed from time to time by the corporate authorities of said town; *and provided further*, that if said Thompson or his assigns shall refuse or neglect to furnish and connect such hydrants and fire plugs within a reasonable time after being duly notified so to do, then all rights, privileges and franchises hereby granted shall cease and be forfeited."

Evidence of the fact that said ordinance was passed by the board of trustees of the town of Alameda at the regular meeting of said board, held on the 27th day of April, 1880, was also introduced.

It was admitted that the City of Alameda, complainant, was incorporated under a freeholders' charter in 1907, and is the successor of the Town of Alameda incorporated by special act of the legislature approved February 21, 1878, and as such has succeeded to all the property and rights of the Town of Alameda. It was also admitted that the defendant has acquired all the property of the former individuals or companies supplying said city of Alameda with water, which admission included the properties of said R. R. Thompson named in said Ordinance No. 254; and that the defendant, by mesne conveyances, became the assignee of whatever franchises or interest in franchises said Thompson had in the city of Alameda. Defendant in so stipulating, however, contended that it is not operating under said Thompson franchise but under the so-called constitutional franchise (Sec. 19, Art. XI, Constitution of 1879). It was admitted that defendant had on hand adequate supply of water for all the purposes contained in the allegations of the complaint made by amendment at the time of the hearing, in the following language:

“That the defendant has on hand an adequate supply of water for all the purposes herein mentioned”;

except in so far as such allegation would include an allegation that defendant had on hand an adequate supply of water for fire protection, and to this part of such allegation defendant asked and was granted leave to amend its answer by denying same.

With the record containing evidence, admissions and stipulations as above set forth, counsel for the parties addressed themselves to the legal questions involved. Counsel for complainant urged, first, that the so-called Thompson franchise was the franchise under which defendant is now operating in the city of Alameda; that it constitutes a contract between the defendant and the city of Alameda, and becomes the measure of the obligations of the defendant to the city of Alameda and the inhabitants thereof; second, that even in the absence of such franchise, and even if the Thompson franchise were not operative and that defendant is and at the time of taking over the properties of Thompson water system it was operating under a constitutional franchise, that the obligation of making the extensions and erecting the hydrants and doing the other things prayed for in the complaint still remains.

Defendant, on the other hand, contends that even though the Thompson franchise were assigned with other properties formerly owned by Thompson, and the defendant, by mesne conveyances, became the owner thereof, that the Thompson franchise was of no value and that the act

of the board of trustees of the town of Alameda in enacting the ordinance granting same was void; that the defendant entered the city of Alameda as a public water utility under the so-called constitutional franchise, citing in support of its position the case of *Russell vs. Sebastian*, 233 U. S. 205.

In this contention defendant seems to have ample support. In 1880, the year that said franchise was granted to Thompson and at which time Thompson commenced his operations of the water system of Alameda, that part of section 19 of article XI of the Constitution which relates to the question under discussion read as follows:

“In any city where there are no public works owned and controlled by the municipality, for supplying the same with water or artificial light, any individual, or any company duly incorporated for such purpose under and by authority of the laws of this state, shall, under the direction of the superintendent of streets, or other officers in control thereof, and under such general regulations as the municipality may prescribe for damage and indemnity for damage, have the privilege of using the public streets and thoroughfares thereof, and of laying down pipes and conduits therein and connections therewith, so far as may be necessary for introducing into and supplying such city and its inhabitants either with gas light or other illuminating light, or with fresh water for domestic and all other purposes, upon the condition that the municipal government shall have the right to regulate the charges thereof.”

It would certainly seem clear from this language that the constitution conferred upon Thompson the right to lay his water pipes in the streets of the city of Alameda subject only to such restrictions as are imposed by the constitution and legislature. This is the interpretation placed upon this section of the constitution by the Supreme Court of this State in several cases.

In *People vs. Stephens*, 62 Cal. 209, the above section of the constitution was construed by the court to be a direct grant from the people to the persons therein designated of the right to lay pipes in the streets of a city for the purposes specified, without waiting for legislative authority or being subject to any restrictions from that branch of the government.

The case of *Pereria vs. Wallace*, 129 Cal. 397—a case wherein it was held that the act of 1897, providing for the sale of franchises, in so far as it attempted to provide a method of sale of franchises for the purpose of supplying municipalities with light or water, was unconstitutional—declared that franchises for the purpose of supplying municipalities with light or water were subject only to the regulations and conditions imposed by the constitution.

In *re Johnston*, 137 Cal. 115, the court in a habeas corpus proceeding discharged petitioner Johnston on the ground that an ordinance of the

city of Pasadena, passed December 17, 1901, was unconstitutional. The ordinance made it unlawful for a person, firm or corporation to lay down any pipe, conduit or connection therewith in any public street in said city for the purpose of supplying the city or its inhabitants with fresh water or gas used exclusively for illumination, or with other illuminating light, without first obtaining, in the manner prescribed in the ordinance, a permit from the superintendent of streets. The ordinance also provided the manner in which said permit should be obtained, and the petitioner, Johnston, applied for such permit but the superintendent of streets refused to grant same. Thereafter, Johnston, acting for the Valley Gas and Fuel Company, whose employee he was, after notice given of the time he would commence work, commenced using the streets for the purposes theretofore named. He was thereupon arrested and charged with the crime of misdemeanor in violating said ordinance. The court, after quoting section 19 of article XI of the constitution, said:

"The only limitations upon the privilege (that of using the streets for the purpose of laying the gas pipes referred to) are those contained in the language in which it is granted, viz. that the work shall be done 'under the direction of the superintendent of streets or other officer in control thereof' and 'under such regulations as the municipality may prescribe for damage and indemnity for damage. Upon a compliance with these conditions any individual or company duly incorporated for such purpose is given the privilege of using the public streets and thoroughfares thereof and of laying down pipes and conduits therein so far as may be necessary for introducing into and supplying such city and its inhabitants either with gas light or other illuminating light, or with fresh water for domestic and all other purposes.' * * *

* * * The designation of 'damage and indemnity for damage' as the subject upon which the municipality may prescribe regulations in regard to laying the pipes is a limitation upon its authority over the matter and a prohibition from prescribing regulations upon any other subject connected with the exercise of the privilege. When the sovereign authority of the state either in its constitution or through its legislature has created a right and has expressed and defined the conditions under which it may be enjoyed it is not within the province of such municipality where such right is sought to be exercised or enjoyed to impose additional burdens or terms as a condition to its exercise."

In the case of *Town of St. Helena vs. Ewer*, 26 Cal. App. Rep. 191, the court held that a municipal corporation has no authority to require the grantee of a franchise for supplying a municipality with water to pay any part of the gross proceeds of the franchise as a condition to its enjoyment; holding further that by section 19 of article XI it was intended that there should be no restriction upon competition in supplying municipalities with such necessities. Other cases to the same effect

are *City of South Pasadena vs. Los Angeles, etc., Co.*, 109 Cal. 315; *Clark vs. Los Angeles*, 160 Cal. 30; *Hanford vs. Hanford Gas Company*, 169 Cal. 749.

There is, however, very serious doubt as to whether or not the Thompson franchise itself obligated the grantee or his assigns to make extensions of mains or to increase the size thereof for fire or other municipal purposes. That part of the Thompson franchise which relates to the question of furnishing water for fire purposes reads as follows:

"And provided also, that said Thompson or his assigns shall furnish and connect with said pipes such reasonable number of hydrants and fire plugs, and at such places as may be prescribed from time to time by the corporate authorities of said town; and provided further, that if said Thompson or his assigns shall refuse or neglect to furnish and connect such hydrants and fire plugs within a reasonable time after being duly notified so to do, then all rights, privileges and franchises hereby granted shall cease and be forfeited."

It will be noted that there is no requirement for or reference to extensions of mains, or increase in size thereof for fire protection or other municipal purposes.

As previously appears, it was admitted by complainant that the hydrants asked for in the complaint had been erected since the complaint was filed. It is quite obvious, therefore, that the defendant admits its obligation to provide hydrants on its mains as they now exist or as they may be required for supplying water for domestic purposes; and it was in fact conceded by counsel for defendant that this Commission has authority to direct defendant to install hydrants on existing mains where those hydrants are necessary for the ordinary uses of hydrants—the ordinary uses of hydrants being beyond the mere purpose of fire protection—provided the Commission considers that it is a reasonable extension of the service.

It would seem, therefore, that with the installation of the hydrants asked for in the complaint, and the defendant conceding the right of the Commission, under the circumstances referred to, to require the installation of hydrants for municipal purposes on existing main or mains which may in future be laid for domestic purposes, that the question now presented is narrowed to the jurisdiction of the Commission to require the extension of mains or the increase in size thereof for fire protection solely.

The case of *Lewis vs. Peoples Water Company* (Opinions and Orders of the Railroad Commission of California, Vol. 3, p. 416), which opinion was rendered by Commissioner Thelen, and treats very exhaustively this question, was frequently cited and referred to by both parties. It would serve no good purpose to here again review the authorities

or to repeat the reasons assigned by Commissioner Thelen for his decision in that case to the effect that the Commission has no jurisdiction on the complaint of an individual to order a water company to increase the size of its mains solely for the purpose of furnishing water for fire protection purposes. Suffice it to say that in that decision Commissioner Thelen quotes from the cases of *Spring Valley Water Works vs. City and County of San Francisco*, 52 Cal. 111; *San Diego Water Company vs. City of San Diego*, 59 Cal. 517; *Spring Valley Water Works vs. San Francisco*, 61 Cal. 3; *Town of Ukiah vs. Ukiah Water and Improvement Company*, 142 Cal. 173, and the later case of *Nichaus Bros. Co. vs. Contra Costa Water Co.*, 159 Cal. 305, and other cases decided by the Supreme Court of California and other states in support of the rule declared in the Lewis case.

Counsel for complainant, would, however, differentiate between the facts under which the decision in the Lewis case was rendered and the facts in the present case, pointing out the restrictive language employed by Commissioner Thelen in the Lewis case in the concluding paragraph of that decision, as follows:

“While in reaching a conclusion in this case it has been necessary to examine the authorities at some length, it should be distinctly understood that the only point decided is that this Commission has no authority to compel the Peoples Water Company to increase the size of its pipes on Prospect avenue, Berkeley, from two to six inches under the circumstances revealed in the pleadings, for the sole purpose of furnishing additional fire protection to the plaintiff.”

Complainant urged that by the employment of such language the Commission intentionally refrained from holding that a complaint of a municipality would not lie against a water utility for the extension of its mains exclusively for fire purposes.

The language employed by Commissioner Thelen in the Lewis case was very appropriately limited to the facts then before the Commission, but certainly throughout that opinion and in the decision there was nothing indicating that the fact that an action is brought by a municipality would induce a greater obligation being imposed upon a water utility in the matter of fire protection than in an action brought by an individual; and to my mind there is no reason for a different rule.

Counsel for complainant stated that he relied upon the cases of *Town of Ukiah vs. Ukiah Water and Improvement Co.*; *Russell vs. Sebastian*; *Lukarawka vs. Spring Valley Water Co.*, 169 Cal. 318; the Nichaus case and section 549 of the Civil Code. In my opinion there is nothing in any of the cases relied upon by complainant in support of its position, the most of which cases were reviewed very carefully in the Lewis case.

Section 549 of the Civil Code, which employs, in so far as it relates to the questions herein involved, the same language as did section 4 of the act of 1858, dealing with the same subject, reads as follows:

“All corporations formed to supply water to cities or towns must furnish pure fresh water to the inhabitants thereof, for family uses, so long as the supply permits, at reasonable rates and without distinction of persons, upon proper demand therefor; and must furnish water to the extent of their means, in case of fire or other great necessity, free of charge. The board of supervisors, or the proper city or town authorities, may prescribe proper rules relating to the delivery of water, not inconsistent with the laws of the state.”

The case of *Spring Valley Water Works vs. San Francisco, supra*, held that section 1 of article XIV of the present constitution had repealed section 4 of the act of 1858 in so far as this section made it the duty of a water company to supply water to municipalities for municipal uses free of charge.

It would seem that the legislature in enacting the act of 1858 and what was practically the re-enactment thereof through section 549 of the Civil Code, deliberately employed language to impose upon the water corporation a somewhat different obligation in so far as domestic use was concerned and the service to be provided “in case of fire or other great necessity.” It will be observed that water corporations “must furnish pure fresh water to the inhabitants thereof for family uses so long as the supply permits, at reasonable rates and without distinction of persons, upon proper demand therefor; and must furnish water to the extent of their means in case of fire or other great necessity, free of charge.” Obviously, it was intended by the legislature to require the water utility to exhaust, if necessary, its supply of water for family uses, but that such a strict obligation was not imposed so far as fire purposes were concerned, and for this reason and for the purpose of fixing a certain limitation upon the obligation of the utility to supply water for fire purposes the language “to the extent of their means” was employed. It would seem to me even in the absence of the rule declared by our Supreme Court and courts of other states whereby water companies, in the absence of contracts, are not held liable for adequate water supply for fire protection, that this language in section 549 of our Civil Code would interpose itself as a limitation of the obligation. It seems further that a fair interpretation of the language “to the extent of their means” is that the utility having under the mandate of the statute provided water for family uses so long as the supply permits, that such supply for family uses even to the exhaustion thereof is the self-attaching limitation “to the extent of their means.” In other words, it would seem that the utility’s primary obligation is that of

furnishing water for family uses, and that from such supply and within such limitations they are required to furnish water for fire protection.

That the view taken by complainant with regard to the liability of the water company in the absence of contract to provide adequate water for fire protection is not the view generally taken by municipalities is, I think, evidenced by the fact that San Francisco, Oakland and other cities have constructed their own independent high pressure systems for fire protection and have not urged that the utilities supplying these communities with water are obliged, under the law, to provide pressure, mains and other instrumentalities to meet all demands for fire protection. It should, of course, be remembered that nothing in this opinion is to be construed as declaring that either a municipality or an individual consumer may not contract with a water utility for fire protection, and that then obligations beyond the statutory obligations hereinbefore referred to attach, such obligations to be measured by the terms of such contract. In my opinion no such contract as is contemplated is presented in this case, and the Thompson franchise ordinance, even if granted the full strength contended for by complainant, does not by express terms or implication obligate either Thompson or his assigns to extend or enlarge mains solely for fire protection.

In the Lewis case, *supra*, Commissioner Thelen said:

“Under the decision in the Niehaus case it seems clear to me that prior to the enactment of the Public Utilities Act there was no duty on the part of the defendant to increase the size of the pipe in Prospect street, Berkeley, for fire protection purposes.”

And after quoting section 13(b) and section 42 of the Public Utilities Act, the opinion proceeds:

“I can not find in these sections any intention to impose upon a water company any duty with reference to fire protection which did not exist before the enactment of the Public Utilities Act. In my opinion, the effect of these sections is not to add to the duty of a water company with reference to fire protection, but rather to declare that a water company shall perform its full duty to the public in all respects in which it is under obligation to the public and to provide that the Railroad Commission may enforce the performance of these duties. If it had been intended to impose upon a water company additional duties demanding the very large expenditures of money which would be required to rebuild their systems in such a way as to insure adequate fire protection, the legislature would certainly have expressed that intention in specific language, clearly indicating its desire. In the absence of such language, I am of the opinion that the Public Utilities Act has not added to the existing duties of water companies with reference to fire protection.”

In view of the rule declared by our Supreme Court in the cases heretofore cited, wherein it was uniformly held that in the absence of contract a public utility was not liable for loss of property by fire, and in view of the manifest fact that the Public Utilities Act did **not** alter or change the nature or degree of obligation previously imposed upon water utilities regarding fire protection, it appears to me that under the facts presented herein this Commission has no jurisdiction in the premises.

I recommend the following form of order:

ORDER.

A public hearing having been held in this matter, at which time certain evidence was introduced and stipulations entered into between the respective parties and argument presented on the question as to whether or not this Commission has jurisdiction to entertain the above entitled proceeding, and the Commission finding that it has no jurisdiction in this matter,

It is hereby ordered that the above entitled proceeding be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of February, 1916.

Decisions Nos. 3115, 3116, 3117, 3118, 3119, 3120, grade crossings; not printed.
See end of volume.

DECISION No. 3121.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AUTHORITY TO EXECUTE AND DELIVER TO THE EQUITABLE TRUST COMPANY OF NEW YORK, A CERTAIN SUPPLEMENTAL MORTGAGE.

Application No. 2072.

Decided February 24, 1916.

Applicant having acquired certain additional property, namely the property of the Selma Water Works, Madera Water Works, Madera Light and Power Company and Lemoore Light and Power Company, which property it desires to subject to the lien of its first and refunding mortgage, applies for permission to execute a supplemental mortgage. Application granted.

REPORT OF THE COMMISSION.

In this application San Joaquin Light and Power Corporation asks for an order authorizing it to execute a supplemental mortgage.

This Commission by its Decision No. 2010, dated December 18, 1914 (Volume 5, Opinions and Orders of the Railroad Commission of California, page 916), authorized Selma Water Works, Madera Water Works, Madera Light and Power Company, Lemoore Light and Power Company and Bakersfield Gas and Electric Light Company to transfer and convey their property to San Joaquin Light and Power Corporation. All of the outstanding stock of the aforementioned companies, except shares of stock necessary to qualify directors, are owned by the applicant herein. The order of the Commission provides that in consideration for said transfer, San Joaquin Light and Power Corporation shall cancel all of the capital stock of said corporations, except that a sufficient number of shares of the capital stock of Bakersfield Gas and Electric Light Company shall be retained to qualify directors. The corporate existence of the Bakersfield Gas and Electric Light Company shall be maintained until such time as its bonded indebtedness has been paid.

The Commission further directed San Joaquin Light and Power Corporation to cause as soon as possible the dissolution of Selma Water Works, Lemoore Light and Power Company, Madera Water Works, and Madera Light and Power Company. All of the outstanding stock of these companies, excepting directors' shares, is owned by San Joaquin Light and Power Corporation and is covered by the lien of its first and refunding mortgage. The mortgage contains the usual after-acquired property clause. However, the trustee, Equitable Trust Company of New York, has called upon the applicant to execute a supplemental mortgage for the purpose of expressly and specifically subjecting the property acquired from Selma Water Works, Lemoore Light and Power Company, Madera Water Works and Madera Light and Power Company to the lien of the first and refunding mortgage.

The supplemental mortgage, dated December 31, 1915, is to be executed to Lyman Rhoades of New York City, trustee. It recites that the Equitable Trust Company of New York requires a supplemental mortgage to be executed to said Lyman Rhoades. After giving a description of the property, the instrument recites that the property conveyed to said Lyman Rhoades is to be held—

“In trust nevertheless, for the uses and purposes set forth in said first and refunding mortgage, and subject to and upon each and all of the trusts, conditions and powers expressed and declared in said first and refunding mortgage.

It is the intention of the parties hereto that the lien of this supplemental mortgage upon the property hereinbefore described shall be on a parity, in all respects, with that of the said first and refunding mortgage, and shall be superior to that certain mortgage executed and delivered by the corporation to Lyman Rhoades, and

bearing date the 31st day of December, 1915, to secure coupons representing additional interest upon certain bonds theretofore issued under said first and refunding mortgage, and known as 'Series B' bonds."

We are of the opinion that this application should be granted and herewith submit the following form of order:

ORDER.

San Joaquin Light and Power Corporation having applied to this Commission for an order authorizing it to execute a supplemental mortgage in substantially the same form and tenor as the supplemental mortgage attached to the application herein, and marked Exhibit "A," and good cause appearing.

It is hereby ordered that San Joaquin Light and Power Corporation be given and it is hereby given authority to execute to Lyman Rhoades, trustee, a supplemental mortgage substantially in the same form and tenor as the supplemental mortgage attached to the application herein and marked Exhibit "A."

The approval herein given of said supplemental mortgage is for the purpose of this proceeding only and an approval in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage as to any other legal requirements, to which said mortgage may be subject.

Dated at San Francisco, California, this 24th day of February, 1916.

DECISION No. 3122.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF TWO HUNDRED SIXTY-SIX THOUSAND DOLLARS AND NOTES OF THE FACE VALUE OF THIRTY-THREE THOUSAND DOLLARS.

Application No. 1731.

Decided February 24, 1916.

REPORT OF THE COMMISSION.

NINTH SUPPLEMENTAL ORDER.

Whereas this Commission by Decision No. 2726, dated August 31, 1915, authorized the delivery to Western States Gas and Electric Company of \$182,000.00 face value of bonds, the issue of which was authorized by Decision No. 2550, dated June 30, 1915, provided that said Western States Gas and Electric Company deposit with the trustee, Girard Trust Company, the sum of \$182,000.00 in cash, said \$182,000.00 so deposited

with the trustee to be withdrawn by applicant herein from time to time in accordance with the order of this Commission permitting the withdrawal; and

Whereas applicant on February 16, 1916, filed a statement showing that it has expended from January 1, 1916, to January 31, 1916, both dates inclusive, the sum of \$9,365.87 for extensions, additions and betterments to its plant; and

Whereas applicant asks for authority to withdraw from the aforesaid fund of \$182,000.00 on deposit with the trustee the sum of \$9,365.87, and good cause appearing,

It is hereby ordered that Western States Gas and Electric Company be given authority and it is hereby given authority to withdraw from Girard Trust Company, trustee, the sum of \$9,365.87, being a portion of the fund deposited with the trustee in accordance with Decision No. 2726, dated August 31, 1915, of the Railroad Commission of the State of California.

It is hereby further ordered that Decision No. 2550, dated June 30, 1915, as amended by supplemental orders thereto, shall remain in full force and effect except as it may be modified by this ninth supplemental order.

Dated at San Francisco, California, this 24th day of February, 1916.

DECISION No. 3123.

IN THE MATTER OF THE APPLICATION OF SACRAMENTO GAS COMPANY FOR PERMISSION TO SELL BONDS OF THE PAR VALUE OF FOUR HUNDRED THOUSAND DOLLARS, AND TO EXECUTE A MORTGAGE OF ITS PROPERTIES.

Application No. 1907.

Decided February 21, 1916.

Applicant having been heretofore authorized to issue \$400,000.00 face value of bonds for refunding and extension purposes, applies for a supplemental order amending the previous authorization of the Commission so as to permit it to reimburse its treasury in the sum of \$8,166.78, and to use \$17,194.58 of such proceeds in addition to the amount heretofore authorized for extensions. Application granted.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

Whereas Sacramento Gas Company was, on the 13th day of November, 1915, by order of this Commission (Decision No. 2898), granted authority to execute a deed of trust creating a bonded indebtedness of \$1,500,000.00 of first mortgage, 6 per cent serial gold bonds, and to issue

and sell \$400,000.00 face value of said bonds at not less than 92½ per cent of their face value, for the purposes of retiring its existing issue of \$200,000.00 face value of bonds and its outstanding notes, amounting to a total face value of \$101,400.00, and for the further purpose of devoting \$11,130.00 of said proceeds to providing for extensions to applicant's plant; and

Whereas applicant asked, in its original petition, for permission to reimburse its treasury to the extent of \$50,820.00 as representing the alleged amount which applicant had expended from its income since April 2, 1913, for the acquisition of property and for the construction, extension and improvement of its facilities and service; and

Whereas in its said decision this Commission stated that a final order authorizing the company to reimburse its treasury for such expenditures could not be granted until applicant had made a more complete showing in support of said request; and

Whereas applicant, on the 17th day of February, 1916, filed with this Commission a verified supplemental application in the above entitled matter requesting authority to reimburse its treasury in the sum of \$8,166.78 for expenditures from its income for the acquisition of property and for the construction of additions and improvements to its facilities and service; and

Whereas applicant further requests permission to expend the sum of \$28,324.58 for necessary extensions, fittings and meters in the city of Sacramento, and also in the city of Lodi, as particularly set forth in said supplemental application under the designation of Exhibit "B" and Exhibit "C"; and

Whereas it appears that said supplemental application should be granted,

It is hereby ordered that applicant be and the same is hereby authorized to reimburse its treasury, from the proceeds of the sale of said \$400,000.00 face value of bonds, in the sum of \$8,166.78 for money expended from its income for the acquisition of property and for the construction, extension and improvement of its facilities, and that applicant be further authorized to expend, from the proceeds of said bond issue aforementioned, for the proposed extensions, additions and betterments to its plant in the cities of Sacramento and Lodi, as set forth in Exhibit "B" and Exhibit "C" of said supplemental application, the sum of \$17,194.58 in addition to the sum of \$11,130.00 authorized for such extensions in this Commission's original order in the above entitled matter, making a total expenditure for said proposed improvements hereby authorized by this Commission of \$28,324.58.

It is hereby further ordered that the provisions of this Commission's order in the above entitled matter, dated November 13, 1915 (Decision

No. 2898), shall remain in full force and effect except as modified or amended by this order.

Dated at San Francisco, California, this 24th day of February, 1916.

DECISION No. 3124.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-OAKLAND
TERMINAL RAILWAYS FOR PERMISSION TO ABANDON AND
REMOVE CERTAIN PORTIONS OF ITS STREET RAILWAY SYSTEM
IN THE CITY OF BERKELEY.

Application No. 1953.

Decided February 24, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

San Francisco-Oakland Terminal Railways having on February 21, 1916, made written request that the above entitled proceeding be dismissed,

It is hereby ordered that said proceeding be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 24th day of February, 1916.

DECISION No. 3125.

IN THE MATTER OF THE APPLICATION OF MOSS BEACH REALTY
COMPANY FOR PERMISSION TO ESTABLISH WATER RATES.

Application No. 2029.

Decided February 25, 1916.

Applicant applies for permission to establish rates for water delivered to its consumers at Moss Beach, and after review of conditions in connection with which it is held that no return should be allowed on the value of this system, considering that it is constructed out of all proportion to the number of consumers it serves, the following rates are established: \$1.00 per month for first 300 cubic feet, 30 cents per 100 cubic feet for all in excess of 300.

Charles B. Smith, for Applicant.

Daniel A. Ryan, for J. F. Weinke.

George O. Rich, in propria persona.

REPORT OF THE COMMISSION.

This is an application on behalf of Moss Beach Realty Company for authority to establish and collect water rates. Public hearings were

held in San Francisco on January 12th and February 9, 1916. From the evidence it appears that Moss Beach Realty Company, a corporation, operates a water system incident to its real estate subdivision business at Moss Beach, San Mateo County. Applicant owns the tract known as Moss Beach Heights, upon which it has ten consumers; it also furnishes water to the tracts known as Moss Beach, upon which there are ten or twelve consumers; Moss Beach Addition No. 1, upon which there are an equal number of consumers; and Moss Beach Addition No. 2, upon which there are three or four consumers.

Applicant, or its predecessor in interest, has been furnishing about thirty-five consumers with water since 1908 without having received any direct compensation from the individual consumers, and applicant now asks permission to charge a minimum of \$1.25 per month for the first 300 cubic feet and 30 cents per 100 cubic feet in excess of the minimum.

The pipe lines on these various tracts were installed by their respective owners to make it possible to sell parcels of land to prospective residents; and the owners, although under no obligation whatever to furnish free water, did not make any serious effort to collect from the individual consumers, having apparently been waiting for the district to become more thickly settled before having water rates established. The proprietors of the tracts own the respective distributing mains situated thereon, but upon the suggestion of this Commission the owners of Moss Beach, Moss Beach Addition No. 1 and Moss Beach Addition No. 2 agreed to transfer all their interests in the mains on their respective properties to applicant free of charge, subject to proper safeguards, upon condition that applicant would furnish all consumers on all of the tracts with water on an equal basis and at reasonable rates. Applicant has agreed to accept this condition and, accordingly, we shall consider for the purpose of this decision all of the mains as constituting one system.

Moss Beach is located about twenty miles south of San Francisco, on the ocean shore, and the four tracts above named contain about 266 acres. The population is somewhat transient, a number coming for week-ends and holidays throughout the winter.

The water supply furnished by applicant was formerly secured from a perennial creek flowing on the northerly side of the district, a hydraulic ram forcing what water was needed into a 15,000-gallon wooden tank, which was installed at a proper elevation to supply the settlement. In 1911, however, the board of health of San Mateo County condemned this source of water and applicant thereafter purchased its water from Montara Realty Development Company. Applicant entered into a contract with that company under which it agreed to purchase the water at wholesale at 25 cents per 1,000 gallons (or 18½ cents per

100 cubic feet). Applicant receives its water from the Montara Company at a point about one-half mile north of its tank and carries the water in a 2-inch pipe over that distance. The total amount of pipe now used in all of the tracts is approximately as follows:

2-inch transmission main metered to tank-----	Feet 2,000
2-inch distribution pipe through the tracts-----	4,250
Total -----	6,250
1½-inch distribution laterals-----	12,600
Grand total -----	18,850

We have not included in this total the pipe connected with the ram; and the ram should be eliminated from consideration as it is not now used nor is there any likelihood that it will be used in the future.

The depreciation allowance upon the entire system, including the 35 meters and services to be installed at a cost of approximately \$350.00, should not exceed \$160.00 per year.

The proper operation of the plant will require a small portion of one man's time, and we feel that \$15.00 per month is all that the plant could at present afford for this item.

We can not at this time require the consumers to pay a rate that will provide any interest return upon applicant's investment, for the plant is built upon such an extended scale as to be all out of proportion to present requirements.

Under all the circumstances we feel that a minimum rate of \$1.00 for the first 300 cubic feet per month and 30 cents for each additional 100 cubic feet will be fair to all parties concerned.

ORDER.

Moss Beach Realty Company having applied to this Commission for an order authorizing applicant to establish rates for water to be furnished to the inhabitants of Moss Beach, Moss Beach Heights, Moss Beach Addition No. 1 and Moss Beach Addition No. 2 in the county of San Mateo, and public hearings having been held at which both applicant and consumers appeared, and evidence having been introduced by the various parties concerned, and the Commission being fully advised in the premises,

We hereby find as a fact:

1. That the rates hereinafter authorized are just and reasonable.

Basing our conclusions upon the foregoing finding of fact and upon the further findings of fact contained in the opinion which precedes this order,

It is hereby ordered that Mess Beach Realty Company be and it hereby is authorized to publish and file with this Commission, and thereafter charge and collect from its consumers the following rates:

For the first 300 cubic feet or less, per month.....	\$1 00
For each additional 100 cubic feet, per month.....	30

Dated at San Francisco, California, this 25th day of February, 1916.

DECISION No. 3126.

IN THE MATTER OF THE APPLICATION OF LATON AND WESTERN RAILROAD COMPANY AND THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY FOR APPROVAL OF LEASE.

Application No. 2094.

Decided February 25, 1916.

REPORT OF THE COMMISSION.

The Atchison, Topeka and Santa Fe Railway Company and Laton and Western Railroad Company having applied to this Commission for approval of a certain agreement entered into between said companies, a copy of which agreement is attached to the application herein and marked Exhibit "A," and under the terms of which agreement The Atchison, Topeka and Santa Fe Railway Company agrees that it will, for a period of thirty (30) days, beginning February 22, 1916, operate the line of railroad owned by Laton and Western Railroad Company in substantially the same manner as it has heretofore been operated, in accordance with the terms of an agreement made between the two companies on May 19, 1911, and of which agreement the new agreement is a continuation; and it appearing to the Commission that this is not a case in which a public hearing is necessary, and that the application should be granted.

It is hereby ordered that the said application be and the same hereby is granted.

Dated at San Francisco, California, this 25th day of February, 1916.

Decisions Nos. 3127 and 3128, grade crossings; not printed. See end of volume.

DECISION No. 3129.

IN THE MATTER OF THE APPLICATION OF STANDARD OIL COMPANY FOR AUTHORITY TO ISSUE TWO HUNDRED FORTY-EIGHT THOUSAND FOUR HUNDRED AND THIRTY-THREE AND A FRACTION SHARES OF COMMON STOCK OF THE PAR VALUE OF ONE HUNDRED DOLLARS EACH.

Application No. 2100.

Decided February 25, 1916.

Applicant, reporting an accumulated surplus of \$44,852,263.02, applies for permission to issue 248,433 shares of stock of the par value of \$100.00 per share to be prorated among its stockholders at the ratio of one-half share of new stock for each share of outstanding stock. Application granted.

Oscar Sutro, of Pillsbury, Madison & Sutro, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

This is an application by Standard Oil Company for authority to issue 248,433 and a fraction shares of its capital stock of the par value of \$100.00 per share to its stockholders. It is proposed to issue this stock on the basis of one-half a share of new stock for each share of outstanding stock, as a dividend to its present shareholders in lieu of the disbursement of cash from the company's surplus.

Standard Oil Company is engaged in the business of developing, transporting, refining and distributing for sale petroleum and its products. As the owner of oil pipe lines it comes within the scope of the Public Utilities Act. Its public utility business, however, is but a small part of its general operations.

In connection with this application the company submitted the following statement of assets and liabilities:

<i>Assets.</i>	
Plant account.....	\$65,834,281 98
Other investments	99,369 36
Inventories	25,017,146 75
Accounts receivable	5,293,155 17
Unexpired taxes and insurance.....	312,716 16
Cash	1,986,662 72
Total	\$98,543,332 14
<i>Liabilities.</i>	
Capital stock authorized.....	\$100,000,000 00
Less unissued stock.....	50,313,344 65
Capital stock issued.....	\$49,686,655 35
Stock premium account.....	250,000 00
Accounts payable	3,754,413 77
Surplus	44,852,263 02
Total	\$98,543,332 14

For the calendar year 1915 the company submitted the following statement of earnings:

Earnings for year-----	\$12,974,655 12
Less depreciation -----	3,444,709 49
Net profits -----	\$9,529,945 63
Dividends paid -----	4,968,665 56
Carried to surplus-----	\$4,561,280 07

Testimony was offered to the effect that the company's recital of assets in the sum of \$98,543,332.14 was an accurate statement, and that its surplus of \$44,852,263.02 represented accumulated earnings over a series of years.

This Commission has made no appraisal of the value of applicant's properties, nor has it investigated its books of account, and will not, therefore, reach any conclusion as to the value of applicant's properties nor as to the amount of applicant's reinvested earnings or surplus.

This Commission has heretofore passed upon other applications of Standard Oil Company to issue stock, and reference is hereby made to Decision No. 1243, dated January 30, 1914 (Vol. 4, page 127, Opinions and Orders of the Railroad Commission of California), and Decision No. 1245, dated January 31, 1914 (Vol. 4, page 139, Opinions and Orders of the Railroad Commission of California).

Applicant has the option of paying out cash or stock in lieu of such disbursement and has chosen the latter expedient. It now reports outstanding \$49,686,655.35 of capital stock against assets which it places at \$98,543,332.14. The company has no bonded debt and its other liabilities consist merely of current accounts. The company reports that it has paid an average dividend during the preceding five years of 6½ per cent; that the total amount of dividends paid during that period was \$15,441,512.01.

Under all of the circumstances of this particular case I believe applicant should be authorized to issue the stock as requested, and I therefore recommend the following form of order:

ORDER.

Standard Oil Company having applied to this Commission for authority to issue 248,433 and a fraction shares of common stock of the par value of \$100.00 per share, as recited in the foregoing opinion, for the purpose of reimbursing its treasury, and a hearing having been held and it appearing that the purposes for which applicant wishes to issue such stock are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Standard Oil Company be granted authority and it is hereby granted authority to issue 248,433 shares of its capital

stock of the par value of \$100.00 per share; said stock to be issued ratably to applicant's stockholders.

The authority herein given is given upon the condition that such authorization shall not be taken as a finding by this Commission of the value of applicant's properties; nor an approval of applicant's submission as to the value of those properties; nor a finding by this Commission of the amount of applicant's reinvested earnings or surplus account.

Within thirty days after the stock herein authorized to be issued shall have been issued, Standard Oil Company shall report such issue to this Commission, stating the amount of stock so issued.

The authority herein granted to issue stock shall apply to such stock as shall have been issued on or before December 31, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of February, 1916.

DECISION No. 3130.

IN THE MATTER OF THE APPLICATION OF ROSEVILLE TELEPHONE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF CAPITAL STOCK.

Application No. 1451.

Decided February 26, 1916.

REPORT OF THE COMMISSION.

Whereas this Commission, in an order dated December 22, 1914 (Vol. 5, Opinions and Orders of the Railroad Commission of California, page 933), authorized Roseville Telephone Company to issue 400 shares of stock of the par value of \$10.00 per share; and

Whereas said order provided that Roseville Telephone Company should issue 305 shares of said stock only after filing with this Commission a statement or statements, in form satisfactory to this Commission, showing in detail the additions and betterments for which the money secured from the sale of 305 shares of stock will be used; and

Whereas applicant has now filed with this Commission a statement of expenditures for additions and betterments from April 1, 1915, to December 31, 1915, in the total sum of \$1,691.79; and it appearing to this Commission that of the expenditures set forth in said statement \$1,670.88 are properly chargeable to capital account,

It is hereby ordered that Roseville Telephone Company be and it is hereby authorized to issue 167 shares of stock of the par value of

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\$10.00 per share for the purpose of reimbursing its treasury for moneys expended for additions and betterments as set forth in a statement filed with this Commission on February 3, 1916; said 167 shares of stock to be a part of and not in addition to the 400 shares of stock authorized by this Commission in its Decision No. 2021, dated December 22, 1914.

Except as modified by the order herein and this Commission's order extending time, dated December 15, 1915, the Commission's original order, dated December 22, 1914, Decision No. 2021, shall remain in full force and effect.

Dated at San Francisco, California, this 26th day of February, 1916.

DECISION No. 3131.

IN THE MATTER OF THE APPLICATION OF THE PEOPLE OF THE STATE OF CALIFORNIA, ON RELATION OF THE DEPARTMENT OF ENGINEERING, FOR AN ORDER AUTHORIZING THE CONSTRUCTION OF A STATE HIGHWAY CROSSING AT GRADE OVER THE TRACKS OF THE COLUSA AND LAKE RAILROAD COMPANY NEAR COLUSA JUNCTION, COLUSA COUNTY, CALIFORNIA.

Application No. 2035.

Decided February 26, 1916.

Applicant granted permission to construct a crossing at grade across the tracks of Colusa and Lake Railroad Company, which is not in operation at the present time, provided that applicant shall maintain such crossing hereafter in good condition.

C. C. Carleton, for Applicant.

P. J. Harney, for Colusa and Lake Railroad Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This application was filed with the Commission on January 3, 1916, and asks permission to construct a crossing of a state highway over the track of the Colusa and Lake Railroad Company at Colusa Junction.

The Colusa and Lake Railroad at the point of the crossing runs east and west, and the highway to the east of the crossing is constructed parallel to the railroad. About 200 feet east the highway swings to the north and crosses the track on a curve.

The highway is at present constructed and no objection was offered by the railroad company to the construction of this crossing. The railroad, however, is in the hands of the bondholders, and the State Highway Commission was unable to secure proper consent from the railroad company, so a formal hearing was made necessary.

Operation on the Colusa and Lake Railroad has been stopped, and as there is no train service over the crossing the matter is not of importance. The crossing is entirely open and even if train service were resumed the crossing could be opened with a minimum of danger.

There appears to be no reason why this application should not be granted, but it will be necessary, owing to the unusual conditions which obtain here, to require the applicant to assume the expense of maintaining the crossing in addition to that of installing it.

I recommend the following form of order:

ORDER.

The people of the State of California, on relation of the department of engineering, having applied to the Commission for permission to construct a state highway at grade over the track of the Colusa and Lake Railroad Company near Colusa Junction, Colusa County, California, and a public hearing having been held, and there appearing to be no reason why this application should not be granted,

It is hereby ordered that the people of the State of California be and the same are hereby granted permission to construct a state highway at grade over the track of the Colusa and Lake Railroad Company at a point and in the manner shown by the map attached to the application; said crossing to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossing, together with the cost of its maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossing shall be constructed of a width not less than twenty (20) feet, with grades of approach not exceeding four (4) per cent, and shall in every way be made safe and convenient for the passage thereover of vehicles and other road traffic.

(3) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 26th day of February, 1916.

DECISION No. 3132.

IN THE MATTER OF THE APPLICATION OF CONTRA COSTA GAS COMPANY FOR A CERTIFICATE THAT THE PRESENT AND FUTURE PUBLIC CONVENIENCE AND NECESSITY REQUIRE, AND WILL REQUIRE, THE EXERCISE OF SUCH PORTION OF THE RIGHTS AND PRIVILEGES GRANTED TO S. WALDO COLEMAN BY ORDINANCE No. 130 OF THE COUNTY OF CONTRA COSTA, ADOPTED SEPTEMBER 2, 1913, AS ARE NECESSARY TO ENABLE THE CONSTRUCTION OF A GAS SYSTEM FOR THE DISTRIBUTION AND SALE OF GAS IN CERTAIN PORTIONS OF CONTRA COSTA COUNTY.

Application No. 2064.

Decided February 26, 1916.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas the Railroad Commission by Decision No. 3087, dated February 8, 1916, authorized the applicant herein to extend its gas transmission and distribution system so as to enable it to distribute and sell gas in the "general territory commencing with the westerly boundary line of the town of Martinez, thence westerly through the unincorporated place known as Port Costa, thence westerly to and including the unincorporated places known as Crockett, Crotona and Valona," all in Contra Costa County, provided that Contra Costa Gas Company shall first have filed with the Railroad Commission a stipulation duly authorized by its board of directors declaring that Contra Costa Gas Company, its successors and assigns, will never claim before the Railroad Commission or any court or other public body, a value for the rights and privileges granted by Ordinance No. 130 of the county of Contra Costa in excess of the actual cost to Contra Costa Gas Company to acquire said rights and privileges, which cost is represented by Contra Costa Gas Company to have been \$299.45, and shall have received from the Railroad Commission a supplemental order declaring that such stipulation, in form satisfactory to the Railroad Commission, has been filed with the Railroad Commission; and

Whereas applicant has now filed with the Railroad Commission a stipulation reading:

"It is hereby stipulated that the Contra Costa Gas Company, its successors and assigns, will never claim, before the Railroad Commission of the State of California, or any court or other public body, a value for the rights and privileges granted by Ordinance No. 130 of the county of Contra Costa to S. Waldo Coleman and later assigned by said S. Waldo Coleman to the Contra Costa Gas Company, in excess of the actual cost to Contra Costa Gas Company of acquiring the said rights and privileges, the cost whereof was two hundred ninety-nine and 45/100 dollars (\$299.45)."

And good cause appearing,

It is hereby ordered that the Railroad Commission of the State of California hereby finds as a fact that Contra Costa Gas Company has filed with the said Railroad Commission a stipulation in accordance with the aforementioned condition found in Decision No. 3087, dated February 8, 1916, in the above entitled proceeding.

Dated at San Francisco, California, this 26th day of February, 1916.

Decision No. 3133, grade crossing: not printed. See end of volume.

DECISION No. 3134.

IN THE MATTER OF THE APPLICATION OF THE CITIZENS WATER COMPANY OF SAN JACINTO TO CHANGE AND INCREASE ITS RATES FOR WATER SERVICE.

Application No. 994.

Decided February 29, 1916.

Applicant, serving water for irrigation purposes to consumers adjacent to the town of San Jacinto, applies for permission to establish a different schedule of rates. The proposed schedule would effect a slight decrease in gross revenue but would remedy a difficulty at present experienced, owing to the fact that the present rates provide for payment whether water is used or not, which causes considerable litigation.

Applicant delivers water under two forms of contract, one calling for a higher rate than the other. Certain of applicant's consumers holding the more favorable contracts protest the Commission's jurisdiction over same. Reference made to Decision No. 536, in which the jurisdiction of the Commission over contracts of such a nature was finally determined, and it is held that irrespective of the time the different consumers began taking service, no discrimination can be made in rates.

Held, That applicant is entitled to the revenue applied for, though the sliding schedule which it proposes is not practical; also consumers residing on higher ground whose service necessitates an additional pumping expense should be required to pay a higher rate than the consumers on the ditch level. The following schedule established to become effective March 15, 1916. Minimum \$3.00 for each 1/7 miner's inch continuous flow, payable on or before March 15th; for water used between March 15th and June 15th, 10 cents per miner's inch day; between June 15th and October 15th, 17½ cents per miner's inch day; remainder of year 5 cents per miners inch day. All lands above the level of ditch to pay an additional 11 cents per miner's inch day.

McFarland & Irving, for Applicant.

C. C. Haskell, for Protestants.

H. S. Dukes, for J. P. and Mary E. Perrine.

Frank Snyder, for the San Jacinto Land Company.

Goudge, Williams, Chandler & Hughes, for the bondholders.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

Applicant asks in this proceeding that its rates for water be substantially increased.

Some of the consumers appeared by counsel, and introduced evidence and filed briefs seeking to show that the increase in rates should not be permitted.

Counsel for some of the consumers argue that applicant is not a public utility, and, therefore, not under the jurisdiction of the Commission, while counsel for other consumers argue that applicant is a public utility. Applicant's counsel insist that it is a public utility.

The Commission has so frequently announced its conclusions as to its jurisdiction in this class of cases that it is useless to review the entire subject here.

It is a fact that applicant does now, and for years past has, served water to consumers other than its stockholders and has received for such service compensation in money. Section 23 of article XII of the constitution of California, as amended on October 10, 1911, provides, in part, that

"Every private corporation, and every individual or association of individuals, owning, operating, managing or controlling * * * any plant or equipment within this state * * * for the production, generation, transmission, delivery or furnishing of heat, light, water or power * * * either directly or indirectly to or for the public * * * is hereby declared to be a public utility subject to such control and regulation by the Railroad Commission as may be provided by the legislature * * *. The Railroad Commission shall have and exercise such power and jurisdiction to supervise and regulate public utilities in the State of California, and to fix the rates to be charged for commodities furnished or service rendered by public utilities as shall be conferred upon it by the legislature, and the right of the legislature to confer powers upon the Railroad Commission respecting public utilities is hereby declared to be plenary and to be unlimited by any provisions of this constitution."

Under the authority of the constitution, the legislature has, in the Public Utilities Act, given full power to the Railroad Commission to regulate water companies such as applicant is clearly shown to be.

Objection is made by some consumers to the fixing of rates by this Commission because the charges now made for water are based on the provisions of two classes of so-called water certificates, Class "A" and Class "B." In Class "A" the charge is less than in Class "B," and the argument is made by protestant consumers that this Commission

has no power to impair the obligations of these certificates, which they insist are contracts.

This matter, also, has been so thoroughly discussed by the Commission, in opinions rendered in the past, that I will only refer to Decision No. 536, application of Murray and Fletcher, Vol. 2, page 464, Opinions and Orders of the Railroad Commission.

In that proceeding full consideration was given to the law with relation to the power of the Commission to fix rates and prescribe service, regardless of the existence of contracts in which service or rates were fixed and agreed upon, and it was determined, after mature consideration, that the law clearly gave this Commission authority to fix rates and prescribe service for public utilities, regardless of the fact that contracts were outstanding in which service and rates, or either, were fixed.

Of course, it does not follow that this Commission must fix rates different than those in contracts, but it is obvious that where under different contracts different rates are prescribed, uniformity is impossible unless the Commission disregards at least some of the contracts and fixes a common level of rates.

In this proceeding I see no equity in permitting a lower rate to be received by Class "A" certificate holders as compared with Class "B" certificate holders. The mere fact that Class "A" certificates were purchased prior to the purchase of the Class "B" certificates does not appeal to this Commission as sound reason for permitting them to retain an advantage in the price of water. All certificate holders are getting the same quality of service and there is nothing in the evidence to indicate that any difference in price should be made for this service.

Applicant owns and operates a water system in the San Jacinto Valley in the county of Riverside, and irrigates lands in the neighborhood of the town of San Jacinto and in and about a community called Fruitvale. The water is obtained by gravity flow and pumping from the San Jacinto River and what is called the Cienega.

The present rates for water are:

Under "A" Certificates.

\$3.00 for 1/5 of a miner's inch continuous flow per certificate from March 14th to October 16th.

Extra water 10 cents per miner's inch day.

Winter water 5 cents per miner's inch day.

Under "B" Certificates.

\$3.00 for 1/7 of a miner's inch continuous flow per certificate from March 14th to October 16th.

Extra water 10 cents per miner's inch day.

Winter water 5 cents per miner's inch day.

Applicant proposes the following rates:

From March 15 to April 15, $7\frac{1}{2}$ cents per miner's inch day.
 From April 15 to May 15, 10 cents per miner's inch day.
 From May 15 to June 15, $12\frac{1}{2}$ cents per miner's inch day.
 From June 15 to July 15, 15 cents per miner's inch day.
 From July 15 to August 15, $17\frac{1}{2}$ cents per miner's inch day.
 From August 15 to September 15, 20 cents per miner's inch day.
 From September 15 to October 15, 20 cents per miner's inch day.
 Winter water, 5 cents per miner's inch day.

The engineers of the Railroad Commission propose the following rates:

Minimum: \$3.00 for each $1/7$ of a miner's inch continuous flow, payable on or before March 15th of each year.
 For water used between March 15 and June 15, 10 cents per miner's inch day.
 For water used between June 15 and October 15, $17\frac{1}{2}$ cents per miner's inch day.
 For water used the remainder of year, 5 cents per miner's inch day.

Appraisals were submitted by Mr. C. C. Brown for the consumers, Mr. Kingsbury Sanborn for the water company, and by the engineers of the Commission.

A comparative tabulation of the appraisal of the physical properties, including real estate, but not including water rights or intangibles follows:

	Sanborn for water company	Brown for consumers	Commission's engineers
Estimated cost, new-----	None shown	\$56,045 00	\$153,283 00
Straight line annual depreciation-----	None shown	1,698 00	4,824 00
Cost, less depreciation-----	\$185,015 00	47,940 00	122,707 00

The Commission's engineers submitted in their report the probable 1916 maintenance and operation expenses based upon the cost of pumping for 1914 and the labor expenses during 1915, as follows:

Expense operating -----	\$1,629 00
Repairs to operating capital -----	549 00
Distribution system labor and expense-----	1,385 00
Collection and promotion of business-----	60 00
Repairs to distribution capital-----	458 00
General expense -----	2,400 00
Legal and extraordinary expense (not included in general ex- pense)* -----	500 00
Total -----	\$6,981 00

*Estimated.

The maintenance and operating expense submitted by the Commission's engineers includes an item of \$554.00, which is the cost of operating the Midway ranch pumping plant, which plant supplies water to lands on a higher elevation than the ditch. Applicant asks for an additional rate of 11 cents per miner's inch day for the cost of this

additional service. The cost of this pumping during 1915, as shown by the books of the company, is \$.112 per miner's inch day.

I believe that the service of water to all land above the level of the ditch should bear an additional charge of 11 cents to compensate for the additional cost of the service, and shall so recommend.

I am not inclined in this proceeding to adopt Mr. Brown's determination of value because he has arbitrarily excluded complete sections of pipe in some instances, and in others, has cut down the size of the pipe to what he considers a proper basis and then expressed his opinion as to the value of the remainder.

On the other hand, the engineers of the Commission have carefully considered the plant as it exists and have expressed the opinion that present consumers should be charged with only about one-third of the present value of the existing plant. And, adopting this latter method with the estimates of the Commission's engineers, we arrive at a figure of \$40,902.00.

Using the figures of the Commission's engineers, therefore, we get the following:

Maintenance and operation -----	\$6,427 00
Annual depreciation -----	1,608 00
Interest of 6 per cent on cost less depreciation -----	2,454 00
Total -----	\$10,489 00

The gross income appearing on the books of the company for 1915 is \$12,312.00, but this money has not all been collected, as a considerable portion of it is in controversy in the courts. The rates suggested by applicant would produce about \$10,100.00 annually, which, it will be noted, is very close to the gross annual charges suggested by our engineers. It would appear that the company's proposed rates would result in cutting their gross revenue, but the fact is that the apparent gross revenue has not been realized, as the practice has been to attempt to collect rates on all certificates whether water was used or not, and this and other matters have caused controversies resulting in actions in the courts, and the applicant has been unable to collect part of its revenue.

Under the rates proposed by applicant or the rates recommended hereinafter by me, payment would be made only for water used, and this should dispose of much controversy and litigation.

It is apparent that under any reasonable consideration of values, the applicant is entitled to the increase in rates asked for, but the schedule of rates proposed with a different rate for each month, would, in my judgment, cause much annoyance and controversy.

I shall, therefore, recommend a schedule of rates which will produce gross income equal to that asked for by applicant, but which spreads the rates somewhat differently.

I shall set out no rules or regulations herein, but suggest that the company submit for our approval a complete set of rules and regulations governing service:

Herewith a form of order:

ORDER.

Application having been made by Citizens Water Company of San Jacinto for authority to change and increase its rates for water, and a public hearing having been had and the Commission being fully apprised in the premises,

It is hereby found as a fact that applicant is a public utility water company, serving consumers with water for irrigation purposes for profit and compensation.

It is hereby further found as a fact that the present rates of applicant for such water service are unreasonable and unremunerative, and that the rates set out in this order are just and reasonable rates to be charged by applicant for service of water to all of its consumers.

Basing its order on the foregoing findings of fact and the further findings of fact contained in the opinion preceding this order,

It is hereby ordered by the Railroad Commission of the State of California that Citizens Water Company of San Jacinto is hereby authorized to put in effect on March 15, 1916, the following schedule of rates:

Minimum: \$3.00 for each 1/7 of a miner's inch continuous flow, payable on or before March 15th of each year.

For water used between March 15 and June 15, 10 cents per miner's inch day.

For water used between June 15, and October 15, 17½ cents per miner's inch day.

For water used the remainder of the year, 5 cents per miner's inch day.

For all water furnished to lands above the level of the ditch to which applicant pumps water, 11 cents per miner's inch day in addition to the rates hereinabove established.

Applicant shall, within thirty days from the date of this order, submit for the approval of this Commission proposed **rules and regulations** governing the service of water to its consumers.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of February, 1916.

DECISION No. 3135.

IN THE MATTER OF THE APPLICATION OF PANAMA-PACIFIC WAREHOUSE CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE OF CAPITAL STOCK AND BONDS.

Application No. 2026.*Decided February 29, 1916.*

Applicant proposes to construct and operate a warehouse in the city of Los Angeles, in connection with which it applies for permission to issue \$450,000.00 face value of bonds and \$382,000.00 par value of stock, and in addition, \$67,500.00 par value of stock for promotion and organization expenses, the granting of which application is protested by certain warehouse operators in the city named, who contend that there is not sufficient business to make another warehouse a financial success. In this connection the Commission points out that securities which it authorizes are not guaranteed to be profitable but must take their place with other securities, the Commission merely endeavoring to see that all possible efforts are made to safeguard them.

Held, Applicant authorized to issue \$450,000.00 face value of bonds to be sold at not less than 90, and \$350,000.00 par value of stock to be sold at not less than 85, also \$40,000.00 par value of stock for promotion and organization expenses, such promotion stock not to be issued until the warehouse shall have been constructed and equipped for operation, and also provided that the long-term bonds shall either be sold previously or at the same time as the shorter-term bonds are disposed of.

Frank James, for Applicant.

C. L. Chandler, for Protestants.

REPORT OF THE COMMISSION.

This is an application of Panama-Pacific Warehouse Corporation for authority to issue and sell \$450,000.00 par value of 20-year 6 per cent serial gold bonds, and \$450,000.00 par value of capital stock, and to use the proceeds of such issues for the purpose of buying a warehouse site, erecting and equipping a warehouse, and for certain other purposes as hereinafter more particularly set forth.

Public hearings were held in Los Angeles on January 24th and January 29, 1916, at which time Davies Warehouse Company, Panama-Commercial Warehouse Company, Los Angeles Warehouse Company and Santa Fe Warehouse Company appeared by their attorney, Mr. C. L. Chandler, as protestants, contending that the warehouse space in Los Angeles already greatly exceeds the demand, and that applicant's venture can not possibly be a profitable one.

Applicant was incorporated in August, 1915, as set forth in its articles of incorporation, for the following purposes among others, viz:

“To acquire by purchase or otherwise, and to lease or hold, construct, operate and maintain warehouses, sheds and other buildings and structures and carry on the business of warehouseman and of storage in the State of California and elsewhere, and to

furnish and equip the same with machinery and appliances for the purpose of storing therein for hire or otherwise, goods, wares, merchandise and all other kinds of property."

The articles of incorporation provide for a capital stock of \$750,000.00, divided into 7,500 shares of the par value of \$100.00 each, and they are signed by the following incorporators who subscribed for one share of stock each: W. C. Cook, Chicago, Illinois; F. H. Brooks, Los Angeles; Robert L. Hubbard, Los Angeles; Frank James, Los Angeles; W. E. Smith, Los Angeles.

It also appears that applicant desires to purchase land for its warehouse site in the industrial section of the city of Los Angeles at a location where it will have shipping facilities from two or more railroad systems, and to construct a fireproof and thoroughly up-to-date warehouse and to furnish the same with the most modern and efficient equipment. To provide for the above construction and other charges herein-after more particularly set forth, applicant asks for authority to issue all of its \$450,000.00 face value of bonds at not less than 85, and \$382,500.00 par value of stock at not less than 85, which would net applicant a total of \$707,625.00.

Applicant further asks authority to issue to C. E. McStay, F. H. Brooks, A. B. Cass, B. H. Raphael, C. L. Bisbee and G. B. Ocheltree of Los Angeles, and Moores & Dunford of Chicago, \$67,500.00 par value of stock in payment of their services and expenses in promoting the warehouse company.

Mr. C. H. Moores, one of applicant's principal promoters, stated that he had made a careful investigation and has found that there are several sites available that are adapted to warehouse purposes. He estimated that approximately 100,000 square feet of land will be necessary for the warehouse, and that the company would be able to buy such land at approximately \$1.75 per square foot. Applicant intends to erect a five-story fireproof, reinforced concrete warehouse, having a total floor area of approximately 350,000 square feet, at an estimated cost of \$350,000.00, in addition to architect's and superintendent's fees, and to equip the warehouse with all modern conveniences.

Applicant has submitted an approximate estimate of the cost of the building and equipping the warehouse, and desires to use the proceeds of said stocks and bonds as follows:

Purchase price of land for warehouse-----	\$175,000
Cost of building -----	350,000
Architect's fee (to be paid to Moores & Dunford) at 5 per cent--	21,600
Equipment for building -----	82,000
Trustee's fee -----	750
Fee for bond issue -----	500
Engraving bonds (9000) -----	1,000
Paving streets and sidewalks -----	2,500
Paving driveway in rear -----	2,000

Side tracks and frogs -----	1,500
Building permit -----	250
Contingent expenses -----	20,000
Taxes first year -----	2,500
Bond interest first year -----	27,000
Overhead first year -----	10,000
Attorney's fees -----	2,500
Estimated total cost of property-----	\$69,100

Although the protestants aforementioned contended that the available warehouse space in Los Angeles greatly exceeds the demand, applicants on their part urged that very few of the warehouses in Los Angeles are modern or up-to-date, a large proportion of them not being fireproof, and some of them not having even been built originally as warehouses.

While an enterprise of this kind must of necessity always contain a decided element of risk, still when we consider the remarkable growth of the city of Los Angeles between the years 1910 and 1915 in its population, its bank clearings and its harbor business, the latter having increased from approximately 80,483 tons of imports and 42,455 tons of exports in 1910 to 531,556 tons of imports and 544,396 tons of exports in 1915, we do not feel justified in denying the application on the ground that applicant's proposal is necessarily premature.

As stated by Commissioner Edgerton in Decision No. 2385, reported in Vol. 6, Opinions and Orders of the Railroad Commission of California, pp. 926, 928, 929:

"It has been the aim of the Commission, as far as could reasonably be done, to safeguard the issue of stocks and bonds. It has never pretended to say that stocks and bonds which it authorized were necessarily good stocks and bonds for an intending investor to buy. On the contrary, it has specifically and repeatedly stated that stocks and bonds issued upon Commission authorization must take their places in the financial world with stocks and bonds heretofore or hereafter issued, and were, therefore, liable to the same economic laws to which all investment is necessarily subject. There is no guarantee by the State.

"I would issue a warning, therefore, to the public or that part of the public which has conceived it to be the function of this Commission to allow the issue of only such investment securities as should be sure to be remunerative and profitable to the investor. That, of course, is not the case. Every stock and every bond issued with the authorization of this Commission should, by the investing public, be subjected to the same scrutiny and to the same test as any other stock or bond which might be available on the market for public purchase."

Moreover, in any business enterprise the honesty and ability of the officials and managers of the company are of no less importance than

the soundness of the proposition. No enterprise subjected to keen competition will succeed unless it is properly managed, and upon this point the investor must always satisfy himself from his own investigations.

Our comments on this subject are not intended to refer to any particular corporation or any particular individual. We have merely taken this opportunity to make these observations in view of the question raised by the contestants as to the probable success of the undertaking.

The statement offered by the promoters as to the amount of money furnished and services rendered by them in the promotion of applicant is as follows:

Name	Cash	Services
C. E. McStay.....	\$1,588 00	\$7,500 00
Frank H. Brooks.....		3,500 00
Automobile for 7 months.....	810 39	
Chauffeur for 7 months, at \$75 per month.....	525 00	
Office equipment and rent of office at Los Angeles for 7 months.....	950 00	
Moore & Dunford—		
Traveling and hotel expenses, C. H. Moore in two trips to Los Angeles, occupying a total of 5 weeks.....	1,150 00	
Traveling and hotel expenses, trip from Chicago to New York, 6 days.....	120 00	
Thirty-six days' time at \$100 per day.....		3,600 00
W. C. Cook of Moore & Dunford—		
Thirty-one weeks at Los Angeles at \$75 per week.....		2,325 00
Traveling expenses, Chicago to Los Angeles.....	90 00	
Incidental expenses at Los Angeles.....	775 00	
Office and financial organization over period of 7 months.....	3,000 00	
Totals	\$9,008 39	\$16,925 00
Total cash and services.....	\$26,008 39	

So far as we can judge from the evidence introduced, we are convinced that if due economy had been exercised the actual cash outlay chargeable to promotion expenses could easily have been kept down to \$5,000.00. We do not consider, for example, that it was necessary for the promoters to have two offices in Los Angeles (as well as one in Chicago), an automobile and a chauffeur, or to allow \$3,000.00 for "office and financial organization over a period of seven months" to Moore & Dunford, who, if this application is allowed, will receive an architect's fee of \$21,600.00.

We feel that Mr. Moore or Moore & Dunford would not be badly paid for their services if they were allowed simply the actual expenses they have thus far incurred and their architect's fee; but it has always been the policy of this Commission to consider the risks involved in the promotion of any enterprise and the possibility of the promoter's failure to receive reimbursement either for his services or for the money

he may have advanced, and, accordingly, we have always endeavored to be liberal in the granting of promotion stock.

Under the circumstances of this case we feel that \$40,000.00 par value of stock would be an extremely liberal allowance to the promoters. This would reimburse applicants for all moneys expended by them and amply compensate them for all their services and any risks they assumed in promoting this enterprise.

Under the present condition of the bond market we consider that applicant ought to be able to sell its proposed bonds for at least 90 per cent of their face value, and we shall make our order accordingly. As these are 20-year serial gold bonds, the first of which mature within three years, the total issue, if sold at 85, would yield an average interest of approximately 7.9 per cent, while if sold at 90 it would yield an average rate of approximately 7.5 per cent, which, considering the fact that the bonds will be secured by a large parcel of land and a thoroughly first-class warehouse, located in the heart of the shipping district of Los Angeles, ought, in our opinion, to enable applicant's promoters to market them with comparative ease. As the first of these bonds to mature will yield a much larger return upon the investment than those maturing at the end of the term, it will be necessary in our order to require that either all the bonds shall be sold at once or else that they shall be sold in the inverse order of their maturity.

Applicant has not submitted its proposed deed of trust. It will, of course, be necessary for the same to be submitted by the company and receive the approval of this Commission before any of the bonds herein authorized can be issued. Moreover, as applicant has not been able to specify the exact parcel of land which it desires to buy, we shall, before finally authorizing the sale of applicant's bonds, require it to give this Commission a description of the proposed site, together with the lowest price at which applicant can obtain the property. The Commission will then be able to issue a supplemental order without requiring applicant to file a new formal application.

ORDER.

Panama-Pacific Warehouse Corporation having applied to this Commission for an order authorizing the issue and sale of \$450,000.00 face value of bonds so as to net applicant not less than 85 per cent of their face value, and the issue and sale of \$382,500.00 of its capital stock at 85 per cent of its par value, and the issue of \$67,500.00 par value of its capital stock in payment of promotion services, and a public hearing having been held, and it appearing that the application should in part be granted, subject to certain modifications and conditions as hereinafter set forth,

It is hereby ordered that Panama-Pacific Warehouse Corporation be and the same is hereby authorized to execute a mortgage or deed of trust creating a bonded indebtedness of \$450,000.00, evidenced by 900 20-year 6 per cent first mortgage serial bonds of the face value of \$500.00 each.

It is hereby further ordered that Panama-Pacific Warehouse Corporation be and the same is hereby authorized to issue and sell said \$450,000.00 face value of bonds.

It is hereby further ordered that Panama-Pacific Warehouse Corporation be and the same is hereby authorized to issue and sell 3,500 shares of its capital stock of the par value of \$100.00 each.

It is hereby further ordered that Panama-Pacific Warehouse Corporation be and the same is hereby further authorized to issue to C. E. McStay, F. H. Brooks, A. B. Cass, R. H. Raphael, C. L. Bisbee and G. B. Ocheltree of Los Angeles, and Moores & Dunford of Chicago, \$40,000.00 par value of its capital stock for all expenses and services incurred in or connected with the promotion and organization of applicant.

The authority herein granted to applicant is granted upon the following conditions, and not otherwise:

1. Panama-Pacific Warehouse Corporation shall issue and sell said bonds so as to net said company not less than 90 per cent of the par value of the principal thereof, together with accrued interest thereon.

2. Panama-Pacific Warehouse Corporation shall issue and sell said \$350,000.00 par value of stock so as to net said company not less than 85 per cent of the par value thereof.

3. Before any of the bonds or stock herein authorized to be issued shall be issued, applicant shall submit to this Commission its proposed mortgage or deed of trust securing said bond issue and shall obtain a supplemental order approving the same.

4. Before any of the \$40,000.00 par value of stock shall be issued to the promoters, applicant must have completed the erection and equipment of its warehouse in accordance with its plans as set forth in the foregoing opinion.

5. Applicant shall issue and sell said stock and bonds at such times and in such a manner that the face value of the bonds issued will at no time exceed the par value of the stock issued and sold by a greater ratio than that of nine to seven.

6. The bonds herein authorized shall be sold in such a manner that no bond maturing at any particular date shall be sold or issued unless all the bonds under this issue maturing at any later date or dates shall be sold at the same time or shall have been sold previously.

7. Before any of the bonds or the stock herein authorized to be issued shall be issued, applicant shall submit a verified statement to this Commission containing an accurate description of the proposed site for the warehouse, together with the net cost of the same.

8. Not more than approximately the following amounts shall be applied from the proceeds of the sale of said stocks and bonds upon the following items, unless authorized by a supplemental order of this Commission:

Purchase of warehouse site	\$175,000
Construction of warehouse building	350,000
Equipment for building	82,000
Architect's fee at 5 per cent	21,600
Trustee's fee	750
Commissioners' fee	500
Engraving 900 bonds	1,000
Paving street and sidewalks	2,500
Paving driveway in rear	2,000
Spur tracks and frogs	1,500
Building permit	250
Taxes for first year	2,500
Bond interest for first year	27,000
Overhead first year	10,000
Attorney's fees	2,500
Contingent expenses	20,000
Total	\$699,100

The balance of the proceeds, amounting to \$3,400.00, shall be retained in applicant's treasury and not expended except upon a subsequent order of this Commission.

9. Panama-Pacific Warehouse Corporation shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds and the stock herein authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to this Commission, stating the sale or sales of bonds or stock during the preceding month, the terms and conditions of such sale or sales, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

10. The authority herein given to issue and sell bonds and stock shall apply only to bonds and stock so issued and sold by applicant on or before December 31, 1916.

11. This order shall not become effective until the fee prescribed by section 57, as amended, of the Public Utilities Act, has been paid.

Dated at San Francisco, California, this 29th day of February, 1916.

DECISION No. 3136.

IN THE MATTER OF THE APPLICATION OF ALTURAS ELECTRIC POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 1970.

Decided February 29, 1916.

Applicant applies for permission to execute a mortgage securing a bond issue of \$100,000.00 face value, and to issue and sell that amount of bonds at not less than 80, the proceeds thereof to be used in retiring its present bond and note indebtedness, and for necessary additions and betterments. After review of applicant's present financial condition, its proposed improvements and the probable return therefrom, it is authorized to issue \$90,000.00 face value of bonds, to be sold at not less than 80, proceeds to retire outstanding bonds at \$43,680.00, outstanding notes in the sum of \$10,625.00, and the sum of \$17,265.00 for proposed improvements.

F. M. Jamison, for Jamison & Wylie, for Applicant.

REPORT OF THE COMMISSION.

This is an application of Alturas Electric Power Company for authority to create a bonded indebtedness of \$100,000.00 of first mortgage 30-year 6 per cent sinking fund gold bonds, and to issue and sell said bonds at not less than 80 per cent of their face value, the proceeds of such sale to be used in taking up certain bonds and notes now outstanding, and providing for future additions, extensions and betterments.

Applicant was incorporated under the laws of the State of California in May, 1909, with an authorized capital stock of \$250,000.00, for the purpose of taking over the business and property of the Alturas Electric Light and Power Company, then supplying current to the town of Alturas and vicinity in Modoc County, and also supplying current under contract to the lines of the Surprise Valley Electric Light and Power Company for distribution at Cedarville in the same county, the Alturas Electric Light and Power Company being unable to make the necessary financial arrangements in order to complete its new plant then under construction on Pine Creek.

The property taken over by applicant at the commencement of business on July 1, 1909, consisted of the water rights, rights of way and whatever franchise the former company had from the town of Alturas, together with its generating station, substations, transmission lines, dams, ditches, flumes and penstocks.

An estimated value was placed upon the various items of this property by applicant, amounting to a total of \$60,536.75, which estimate

forms the basis of the books and accounts which have since been kept by this company, and stock in the company was issued to the various stockholders of the old company according to their interests therein, with Mr. B. F. Lynip of Alturas as a new stockholder. Upon completing the organization of the company, I. W. Gibbins was elected president and manager, B. Lauer, vice president, and B. F. Lynip, who is also cashier of the First National Bank of Alturas, secretary and treasurer. These men also constitute the company's board of directors and have continued in their respective offices from their original election to the present time.

Applicant produces its power at the mouth of Pine Creek canyon, approximately seven miles southeast of Alturas, where it has its hydro-electric plant. The water is diverted from Pine Creek at a point about five miles up the canyon from the power house by a diverting dam. From the dam the water flows through a 25-inch wood stave pipe for approximately 3,000 feet, through a flume for 1,064 feet, and through a ditch for 13,572 feet, which carries the water to the forebay.

The pressure penstock extends all the way from the forebay to the power house, a distance of 5,380 feet. The first 3,195 feet is of wood-stave pipe, the remaining 2,185 feet being composed of double-riveted steel pipe. The power house is a wood frame building with concrete foundations and contains one 500-horsepower impulse wheel to a 300 K. V. A. 6,600-volt alternating current generator.

The following is a statement of the electric company's fixed capital accounts on October 1, 1915, as shown by the company's books.

Hydraulic power plant equipment-----	\$9,515 74
Power plant buildings and generating station-----	3,535 57
Dams, conduits and penstocks-----	58,701 15
Landed capital -----	200 00
Poles and fixtures "A"-----	2,406 75
Poles and fixtures "B"-----	1,953 23
Substation building -----	300 00
Substation equipment -----	3,526 96
Overhead system "A"-----	4,081 26
Overhead system "B"-----	4,692 13
Miscellaneous equipment -----	83 15
Line transformers and devices-----	4,703 59
Meters -----	2,550 31
Municipal street lighting system-----	323 31
Office equipment -----	184 47
Roads, bridges and trestles-----	877 23
Telephone lines -----	548 90
Total -----	\$98,183 75

Mr. R. M. Vaughan, one of this Commission's assistant engineers, made a careful examination and estimate of the reproduction cost new

of all of the electric company's physical properties, a brief summary of which is as follows:

	Cost to reproduce	Account total	Group total
<i>Production Capital.</i>			
Dams, water conduits and penstocks—			
Diverting dam	\$2,397		
Wood stave pipe	6,665		
Flume	1,689		
Ditch	1,982		
Ditch	2,298		
Middle reservoir	300		
Ditch	1,059		
Open ditch	1,712		
Forebay	5,018		
Wood stave pipe	9,514		
Penstocks	15,574		
Total dams, water conduits and penstocks		\$48,238	
Power plant buildings and general structures		5,689	
Hydraulic power plant equipment—			
Water wheel and equipment	\$2,105		
Electrical equipment	5,376		
Total hydraulic power plant equipment		7,481	
<i>Transmission Capital.</i>			
Poles and fixtures	\$1,179		
Overhead system	1,953		
Total transmission capital		3,132	
Distribution system—			
Poles and fixtures	\$1,550		
Overhead system	2,663		
Line transformers and devices	4,702		
Services	934		
Meters	2,550		
Substations	3,198		
Municipal street lighting	323		
Total distribution system		15,920	
<i>General Capital.</i>			
Miscellaneous equipment	\$83		
Roads, trestles and bridges	877		
Office furniture and fixtures	345		
Telephone lines	549		
Total general capital		1,854	
Total nonlanded operative capital, less overhead			\$82,314
Overhead, 12 per cent			9,878
Total nonlanded capital			\$92,192
Real estate			200
Nonoperative capital			1,600
Total capital, operative and nonoperative			\$93,992

The foregoing table includes the value of land owned by applicant, but makes no allowances for development costs, good will, franchises or any other intangible interests.

Applicant has since its organization supplied the town of Alturas and its immediate vicinity, and this constitutes applicant's entire field with the exception of the current which it furnishes at its own power house at wholesale to the Surprise Valley Electric and Power Company, which serves the Surprise Valley.

Applicant has recently entered into a contract for supplying the Hess Gold Mining Company with whatever electricity it will need, which applicant estimates will amount to a continuous use of about 50 horsepower. Applicant also expects to supply two or three small consumers located along the proposed line of the Hess Gold Mining Company, who will use intermittently a total of about 20 horsepower. In order to supply these additional consumers it will be necessary for applicant to make certain improvements, among which will be the raising of its dam at the storage reservoir three feet, which will almost double its present capacity, making certain changes in its water wheel by which it expects to increase its efficiency 20 per cent, installing an auxiliary unit in the town of Alturas which will be operated by a 225 or 250 horsepower crude oil engine, and extensive repairs on its wooden stave conduit.

Applicant has submitted an estimate of the cost of these improvements, which may be summarized as follows:

Raising of dam.....	\$1,822 00
Improvements on water wheel.....	600 00
6,600-volt transmission line.....	755 98
2,200-volt distribution line.....	961 92
Auxiliary unit	13,126 00
Total	\$17,265 90

The installation of the auxiliary plant would be of great value to applicant in rendering its present service more reliable, and it will be absolutely needed if applicant is to supply the mining company. The latter, on its part, will build its own transmission line a number of miles to applicant's plant, and applicant expects to receive from this source alone an additional revenue of from \$600.00 to \$700.00 per month, an increase of about 50 per cent of its total present income.

Applicant has submitted the following statement of its income accounts for the years 1912, 1913 and 1914:

	Dec. 31, 1912	Dec. 31, 1913	Dec. 31, 1914
Operating revenue	\$13,397 16	\$13,526 05	\$13,608 66
Operating expenses	6,629 21	5,935 47	8,046 55
Net operating revenue.....	\$6,767 95	\$7,590 58	\$5,562 11
Gross corporate income.....	6,767 95	7,893 88	5,829 33
Interest deductions	\$2,959 57	\$3,199 04	\$3,368 64
Other deductions	306 14	614 72	294 21
	\$3,265 71	\$4,113 76	\$3,662 85
Balance to surplus.....	\$3,502 24	\$3,780 12	\$2,166 48

Applicant has approximately 195 consumers in Alturas, and for the year 1915 estimates that its total business will amount to \$14,614.31, approximately \$1,300.00 more than that of the preceding year, while its expenses will remain about the same.

Applicant has an authorized bond issue of \$55,000.00 of 5 per cent first mortgage bonds. These bonds mature serially as follows:

July 1, 1912.....	\$2,000 00
July 1, of 1913 to 1923, each year.....	3,000 00
July 1, of 1924 to 1928, each year.....	4,000 00

Applicant has paid the bonds which fell due in 1912 and 1913, but it has not paid those which fell due in 1914 and 1915. It has, accordingly, outstanding at the present time \$50,000.00 face value of bonds; it also has outstanding the following short-term promissory notes:

Payee	Interest per cent	Amount
B. F. Lynip (for First National Bank of Alturas).....	8	\$4,200 00
Jacob L. Gilcher.....	8	1,450 00
First National Bank of Alturas.....	8	3,000 00
D. E. Mulkey.....	8	1,975 00
Total		\$10,625 00

The company has no other outstanding indebtedness excepting current accounts amounting to not more than \$1,300.00 or \$1,400.00.

The company has a total outstanding issue of 2,500 shares of stock of the par value of \$100.00 each, 145 shares of which are preferred; the stock at present is owned as follows:

<i>Common Stock.</i>	
B. F. Lynip.....	1,260 shares
I. W. Gibbins.....	1,095 shares
Total	2,355 shares
<i>Preferred Stock.</i>	
B. Lauer	100 shares
D. E. Mulkey.....	45 shares
Total	145 shares

The only dividend which applicant has ever paid is the 5 per cent dividend which it is required to pay upon its preferred stock, amounting to a total of \$725.00 per annum.

On account of the severe winters in Modoc County applicant has met with considerable difficulty in operating its hydroelectric plant during the cold weather, and has been compelled to spend a considerable sum in an effort to overcome this difficulty. It has met with very fair success in this effort, and the proposed auxiliary unit would entirely overcome any future interruptions of service from this source.

The question was raised at the hearing as to how much it would cost applicant to buy in its outstanding bonds. Mr. B. F. Lynip testified that the present bondholders would be willing to sell back to applicant their bonds, which, upon their face, bear 5 per cent interest, on an 8 per cent basis. In other words, if applicant retires on April 1, 1916, all its outstanding bonds of the face value of \$50,000.00, it will be able to buy them in for approximately \$43,680.00.

Apparently the company's plant is well operated and is maintained in a high state of efficiency; but under all the circumstances we should not feel justified in authorizing applicant to sell at this time more than \$90,000.00 face value of its proposed \$100,000.00 issue of bonds.

Applicant has submitted a proposed deed of trust which will require certain alterations and amendments before the bonds herein authorized can be issued. Applicant has expressed its willingness to prepare a new deed of trust embodying all the suggested changes.

ORDER.

Alturas Electric Power Company having applied to this Commission for authority to execute a mortgage or deed of trust to secure a bonded indebtedness of \$100,000.00 of first mortgage, 30-year, 6 per cent gold bonds, and to issue and sell all of said bonds at not less than 80 per cent of their face value, and a public hearing having been held upon said application, and the Railroad Commission finding that the purposes for which said bonds or the proceeds thereof are to be used are not in whole or in part reasonably chargeable to operating expenses or to income, and that the application should be granted subject to the conditions, modifications and restrictions hereinafter set forth,

It is hereby ordered that Alturas Electric Power Company be and the same is hereby authorized to execute a mortgage or deed of trust of its properties to secure a bonded indebtedness of \$100,000.00 face value of first mortgage, 30-year, 6 per cent bonds; and

It is hereby further ordered that Alturas Electric Power Company be and the same is hereby authorized to issue \$90,000.00 face value of said bonds.

The authority herein granted to applicant to execute a mortgage or deed of trust of its properties and to issue said bonds is granted upon the following conditions and not otherwise:

1. Alturas Electric Power Company shall issue said bonds so as to net said company not less than 80 per cent of the par value of the principal thereof and accrued interest thereon.

2. Before any of said bonds herein authorized shall be issued, applicant shall make definite provision for buying in all of its outstanding bonds for a total price not exceeding \$43,680.00 (and accrued interest).

3. The proceeds of the bonds herein authorized to be issued shall be applied as follows:

To refund all of applicant's outstanding bonds	\$43,680 00
To pay applicant's outstanding notes as follows:	
B. F. Lynip (for First National Bank of Alturas) ..	\$4,200 00
Jacob L. Gilcher	1,450 00
First National Bank of Alturas	3,000 00
D. E. Mulkey	1,975 00
	<hr/>
	10,625 00
To pay for the proposed improvements as submitted by applicant and referred to in the foregoing opinion	17,265 90
	<hr/>
Total	\$71,570 90

4. Applicant shall submit to this Commission a revised mortgage or deed of trust and shall not execute any mortgage or deed of trust until it shall have obtained a supplemental order from this Commission approving the same.

5. The authority herein granted to execute the mortgage above mentioned, and to issue bonds as above set forth, shall apply only to such mortgage or deed of trust as shall be executed, and to such bonds as shall be issued, on or before December 31, 1916.

6. Applicant shall report to the Railroad Commission within thirty days after the issue of bonds herein authorized the face value of the bonds so issued, the net amounts received therefor and the disposition of the proceeds thereof, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

7. This order shall not become effective until applicant has paid the fee prescribed in section 57, as amended, of the Public Utilities Act.

Dated at San Francisco, California, this 29th day of February, 1916.

DECISION No. 3137.

IN THE MATTER OF THE APPLICATION OF MOULTON IRRIGATED LANDS COMPANY FOR AUTHORITY TO CREATE A BONDED INDEBTEDNESS OF THREE HUNDRED FIFTY THOUSAND DOLLARS, AND TO ISSUE BONDS SECURED BY MORTGAGE OR DEED OF TRUST UPON CERTAIN OF ITS REAL PROPERTY.

Application No. 2086.

Decided February 29, 1916.

Applicant applies for and is granted permission to mortgage its property to secure a bond issue of \$350,000.00 and to issue thereunder a like face value of 6 per cent 10-year serial bonds, such bonds to be sold at not less than 95, proceeds to be used to retire \$175,000.00 outstanding bonds, the balance to be applied to the retirement of notes and payments on open accounts.

Thomas E. O'Donnell, for Applicant.

Cushing & Cushing and *E. E. Richter*, of counsel.

REPORT OF THE COMMISSION.

LOVELAND, Commissioner.

This is an application of Moulton Irrigated Lands Company for authority to mortgage 16,000 acres of land located in Colusa, Glenn and Sutter counties as security for an issue of \$350,000.00 of 6 per cent first mortgage gold bonds.

Moulton Irrigated Lands Company was incorporated on August 6, 1910. It is the owner of approximately 18,000 acres of land, located, for the most part, in Colusa County, and it is engaged primarily in the business of cultivating, developing, renting and selling these lands.

It has an authorized capital stock issue of 50,000 shares of the par value of \$10.00 per share, of which 35,000 shares have been issued and sold at par. Applicant has no preferred stock and has paid no dividends.

At the present time the company has an authorized issue of \$250,000.00 of 6 per cent 10-year serial gold bonds secured by deed of trust to First Federal Trust Company of San Francisco, dated December 15, 1912. The execution of this mortgage and the issue of bonds thereunder was authorized by this Commission in Decision No. 431, dated January 30, 1913 (Vol. 2, Opinions and Orders of the Railroad Commission of California, page 128). Of the \$250,000.00 of bonds issued under authority of said decision, \$175,000.00 are now outstanding.

Applicant's other liabilities at the present time consist of notes payable in the sum of \$296,000.00 and accounts payable in the sum of \$39,323.64.

In this application, Moulton Irrigated Lands Company is asking for authority to execute a new trust deed to First Federal Trust Company of San Francisco, increasing its bonded indebtedness to \$350,000.00 and to issue \$350,000.00 of 6 per cent bonds thereunder at not less than 95 per cent of their face value and accrued interest. The property mortgaged under said trust deed will be practically the same as that mortgaged to secure the company's present bond issue. The bonds to be issued thereunder will be of the denomination of \$1,000.00 each. They will be dated January 15, 1916, and will mature serially as follows:

Nos. 1 to 30, both inclusive	January 15, 1920
Nos. 31 to 60, both inclusive	January 15, 1921
Nos. 61 to 90, both inclusive	January 15, 1922
Nos. 91 to 120, both inclusive	January 15, 1923
Nos. 121 to 150, both inclusive	January 15, 1924
Nos. 151 to 180, both inclusive	January 15, 1925
Nos. 181 to 350, both inclusive	January 15, 1926

Bonds are redeemable upon six months' notice at 105 and accrued interest, provided that not less than \$30,000.00 face value of bonds are redeemed at any one time.

The trust deed provides that lands may be released from the lien of the indenture upon payment to the trustee of such sums as may be fixed by an appraiser or appraisers, but in no case less than \$50.00 per acre. Provision is also made whereby lands may be released after January 15, 1920, in case the remaining lands, exclusive of personal property, water rights, etc., are in value at least three times the face value of the outstanding bonds.

Out of the proceeds from the sale of \$350,000.00 of bonds herein applied for, applicant proposes:

(a) To retire the \$175,000.00 of bonds now outstanding under its old mortgage;

(b) To retire a one-year mortgage note, dated July 12, 1915, payable to Colusa County Bank, in the principal sum of \$10,000.00, and bearing interest at 7 per cent per annum;

(c) To retire the following notes:

Payee	Date	Date of maturity	Interest per cent	Principal
Bank of California.....	Oct. 31, 1915	Jan. 31, 1916	6	\$30,000 00
Bank of Watsonville.....	May 20, 1915	Aug. 20, 1916	7	10,000 00
First National Bank of San Francisco.....	Dec. 14, 1915	Jan. 14, 1916	6	25,000 00
Bank of Hollister.....	May 24, 1915	Aug. 24, 1915	7	5,000 00
Bank of Hollister.....	June 11, 1915	Sept. 11, 1915	7	5,000 00
Bank of Hollister.....	Oct. 17, 1915	Jan. 17, 1916	7	22,500 00
Bank of Hollister.....	Nov. 1, 1915	Feb. 1, 1916	7	10,000 00
Bank of Hollister.....	Nov. 1, 1915	Feb. 1, 1916	7	10,000 00
Total	\$117,500 00

(d) To pay \$10,000.00 on a note in the total principal sum of \$50,000.00 held by Watsonville Savings Bank, dated June 10, 1913, matured January 10, 1914, and bearing interest at 6 per cent per annum;

(e) To pay \$20,000.00 on applicant's open account with Ausaymas Ranch Company, the total amount of said account being the sum of \$22,162.97.

Applicant desires to pay off the mortgages under (a) and (b) above in order that the \$350,000.00 of bonds which it proposes to issue may be a first lien upon the property.

Witness for applicant testified that the indebtedness which it is proposed to pay out of the proceeds of the bond issue had been incurred in the purchase of land and in making improvements thereon.

In its application Moulton Irrigated Lands Company stated that it did not regard itself as a public utility, but applied to the Railroad Commission for authority to issue bonds because First Federal Trust Company of San Francisco, trustee under its proposed bond issue, required that it obtain an authorization from the Railroad Commission before it would accept the trust.

It appears that applicant is furnishing water to certain lessees of its land under contract, and while it makes no direct charge for water it nevertheless receives a larger rental from the land because of the fact that it furnishes the water necessary for the cultivation of such land.

I am of the opinion that under the terms of the Public Utilities Act this company is a public utility and that the Commission may assume jurisdiction in this matter.

Evidence was presented to show that the value of the property proposed to be mortgaged is greatly in excess of the proposed bond issue of \$350,000.00. The president of the company testified that the majority of this land may be reasonably appraised at \$50.00 per acre.

I recommend that the application herein be granted and submit the following form of order:

ORDER.

Moulton Irrigated Lands Company having applied to this Commission for an order authorizing the execution of a mortgage in the sum of \$350,000.00 to First Federal Trust Company of San Francisco, trustee, and for authority to issue bonds thereunder in the total sum of \$350,000.00, and a hearing having been held, and it appearing to this Commission that the purposes for which it is proposed to issue said bonds are not reasonably chargeable in whole or in part to operating expenses or to income,

It is hereby ordered that Moulton Irrigated Lands Company be and it is hereby authorized to execute a mortgage to First Federal Trust Company of San Francisco substantially in the same form and tenor as the mortgage submitted in connection with the application herein and marked Exhibit "B."

It is hereby further ordered that Moulton Irrigated Lands Company be and it is hereby authorized to issue \$350,000.00 face value of 6 per cent first mortgage gold bonds.

The order herein granted is granted upon the following conditions and not otherwise:

1. The bonds herein authorized shall be sold so as to net applicant not less than 95 per cent of their face value and accrued interest.

2. The proceeds from the sale of said bonds shall be used for the following purposes:

(a) To retire the \$175,000.00 of bonds now outstanding under its old mortgage.

(b) To retire a one-year mortgage note dated July 12, 1915, payable to Colusa County Bank in the principal sum of \$10,000.00 and bearing interest at 7 per cent per annum.

(c) To retire the following notes:

Payee	Date	Date of maturity	Interest per cent	Principal
Bank of California.....	Oct. 31, 1915	Jan. 31, 1916	6	\$30,000 00
Bank of Watsonville.....	May 20, 1915	Aug. 20, 1916	7	10,000 00
First National Bank of San Francisco.....	Dec. 11, 1915	Jan. 14, 1916	6	25,000 00
Bank of Hollister.....	May 24, 1915	Aug. 24, 1915	7	5,000 00
Bank of Hollister.....	June 11, 1915	Sept. 11, 1915	7	5,000 00
Bank of Hollister.....	Oct. 17, 1915	Jan. 17, 1916	7	22,500 00
Bank of Hollister.....	Nov. 1, 1915	Feb. 1, 1916	7	10,000 00
Bank of Hollister.....	Nov. 1, 1915	Feb. 1, 1916	7	10,000 00
Total				\$117,500 00

(d) To pay \$10,000.00 on a note in the total principal sum of \$50,000.00 held by Watsonville Savings Bank, dated June 10, 1913, matured January 10, 1914, and bearing interest at 6 per cent per annum.

(e) To pay \$20,000.00 on applicant's open account with Ausaymas Ranch Company, the total amount of said account being the sum of \$22,162.97.

3. The approval herein given of said mortgage is for the purpose of this proceeding only and an approval in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject.

4. Moulton Irrigated Lands Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission, stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein given to issue bonds shall apply only to bonds issued by applicant on or before March 31, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of California.

Dated at San Francisco, California, this 29th day of February, 1916.

DECISION No. 3138.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF TIDEWATER SOUTHERN RAILWAY COMPANY IN THE STATE
OF CALIFORNIA.

Case No. 584.*Decided March 3, 1916.*

Investigation upon the Commission's own initiative to determine the various elements entering into the value of respondent's property.

Findings of fact: That the reproduction value of the operative physical property of respondent as of June 30, 1914, is the sum of \$644,026.26; of nonoperative property, \$92,802.49; that the reproduction cost less depreciation or present value of the operative physical property of respondent as of June 30, 1914, is the sum of \$623,377.19; of the nonoperative property, \$90,166.49.

Company list full commercial rates for movements of construction freight; this sum is not permitted, and an allowance of 7 mills per ton mile made under this heading.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This proceeding was brought on the Commission's own initiative for the purpose of ascertaining and reporting various elements entering into the value of the property of the Tidewater Southern Railway Company. For the general procedure in these valuation cases, and for a general description of the work performed by this Commission's engineering department, reference is hereby made to the Commission's opinion and findings in Case No. 206, being the matter of ascertaining the value of the property of the Stockton Terminal and Eastern Railroad Company, and Case No. 210, being the matter of ascertaining the value of the property of the Tonopah and Tidewater Railroad Company.

The valuation of the railroads in California was undertaken by the Commission under the provisions of section 20 of the Stetson-Eshleman Act, effective February 10, 1911, and continued under the provisions of the Public Utilities Act, effective March 23, 1912. The sections of that act particularly applicable to this proceeding are sections 47 and 70. As is usual in these cases, I shall make findings of fact on specified elements bearing on the question of the value of this property, as shown by the evidence in this case, but I shall not make a finding on the question of the ultimate value of the property, irrespective of the purpose for which value is to be ascertained.

I shall, in connection with this particular inquiry, consider the following matters:

1. Organization, construction and operation.
2. Stocks and bonds.
3. Revenues and expenses.
4. Original cost, as defined.
5. Reproduction cost, as defined.
6. Reproduction cost, less depreciation, as defined.

I shall first define the three elements of value which I propose to find.

The term "original cost" means the original book cost, and is defined as the actual expenditures chargeable to capital account, in accordance with the Interstate Commerce Commission's classification for steam roads, in cash or its equivalent in terms of cash, by the public utility for its operative property in the State of California, as of the date of the valuation.

The term "reproduction cost" means the estimated cost in cash of reproducing, in the condition (new or second-hand) in which it was acquired, the physical property of the public utility in the State of California, as of the date of the valuation; to which is added the value of all operative lands, based on the market value of adjacent and similar lands, the actual or estimated cost of acquiring franchises and the estimated cost of overhead expenditures for engineering, law, interest and other similar items.

The term "reproduction cost less depreciation" means the reproduction cost less the diminution in the value of the physical elements of the property, due to use, age, obsolescence, inadequacy, or other causes, this diminution being called depreciation, plus the increase in the value of the physical elements of the property, due to age or other causes, this increase being called appreciation.

In accordance with the Commission's order of April 13, 1914, the Tidewater Southern Railway Company on June 22, 1914, filed with the Commission an inventory of its property, together with a statement of its original cost and an estimate of its reproduction cost and reproduction cost less depreciation as of April 30, 1914. A copy of the final summary sheet of that appraisal is attached to this opinion and marked Exhibit "A."

On December 3, 1915, the Commission's engineering department submitted to the Commission its detailed valuation report as of June 30, 1914; and on December 14, 1915, a copy of this report was sent to the company by the Commission. That report had three final summary sheets covering respectively the operative property, the nonoperative property and the total property, both operative and nonoperative. Copies of these final summary sheets are attached hereto and marked Exhibits "B," "C," and "D."

A hearing was held on this valuation matter on January 22, 1916, and the company was in advance duly notified of this hearing. On

December 30, 1915, through its auditor, it acknowledged receipt of the notice of hearing and advised that it would not be represented at that hearing, and I shall consequently assume that the officials of the company had no objections to offer to the valuation report made by the Commission's engineering department, a copy of which it had received. I have analyzed that report and believe the results arrived at to be fair. Exhibits "B," "C," and "D," therefore, represent my findings in regard to this valuation.

1. Organization, Construction and Operation.

The Tidewater Southern Railway Company was incorporated on March 19, 1912, and is a consolidation of the Tidewater and Southern Railroad Company and the Tidewater Southern Transit Company. The first of these two companies was incorporated on October 4, 1910, to build and operate a standard gauge railroad from Stockton, San Joaquin County, to Turlock, Stanislaus County. The estimated length of the line was 50 miles, and a branch line from Atlanta to Ripon of an estimated length of 5 miles was proposed. The second of these companies was incorporated February 11, 1912, to build a railroad from Turlock to the city of Fresno, Fresno County, an estimated distance of 97 miles. It had authority also to construct various branch lines aggregating 75 miles in length.

On March 9, 1912, the Tidewater and Southern Railroad Company was consolidated with the Tidewater Southern Transit Company, the consolidated companies incorporating under the name of Tidewater Southern Railway Company.

The new corporation was empowered to build a standard gauge railroad from Stockton through Modesto and Turlock to Fresno, together with various branches; the estimated main line mileage being 147 miles and the proposed branches aggregating some 80 miles in length.

During the summer of 1911 the Tidewater and Southern Railroad Company graded about 8 miles of roadway between Turlock and Merced River and graded 6 miles out of Turlock to Modesto, and laid $4\frac{1}{2}$ miles of track on that grade. Construction was interrupted, but during the spring of 1912 the company resumed work and completed the grading between Escalon and the Stanislaus River. In July of that year steam passenger and freight service was inaugurated between Modesto and the river. During the following summer the road was completed from Stockton to Modesto, and in October of that year steam service was started between these points. Thereafter the line was electrified and the entire main line from Stockton to Modesto was placed in operation under electric service on November 15, 1913.

As the line stands today it is a standard gauge, single track electric railway, with no branch lines, between Stockton and Modesto, and has

an operative mileage of 32.24 main track miles. In addition, however, to this main track mileage the company owns nonoperative property in Stanislaus and Merced counties consisting of about 6 miles of graded line west of Turlock toward Modesto and 8 miles of grade south of Turlock to the Merced River. On this latter grade there are some 4.49 miles of track. The company owns but a short piece of track in Stockton and makes it entrance into that city over the tracks of the Central California Traction Company under an agreement which is based on a monthly rental.

The grades of the road are light. The maximum grade is 1 per cent and the maximum curve outside of city streets is 8 degrees. The standards of construction appear to compare favorably with those used by electric railways in the State. Part of the line is ballasted; 6 by 8 by 8 inches redwood ties are used; and the rail is generally 60-pound per yard in weight. The electrical distribution system is of catenary construction with the exception of a small amount of span construction in the streets of Stockton and through the yards.

The car service consists of eight northbound and eight southbound passenger trains operating at two-hour intervals. For freight service one train daily each way is run between Modesto and Stockton.

2. Stocks and Bonds.

As has been said, the Tidewater Southern Railway Company is a consolidation of two companies previously incorporated. The financing of these two companies and the early financing of the company which succeeded them has already been thoroughly discussed by the Commission in connection with an application of the Tidewater Southern Railway Company to issue stocks and bonds. It consequently seems unnecessary to repeat that discussion in this opinion and reference is hereby made for these details to the Commission's decision in Application No. 38, "In the matter of the application of Tidewater Southern Railway Company for an order authorizing an issue of 600,000 shares of common stock and \$750,000.00, face value, of bonds," reported at page 232 in Volume 1 of the Opinions and Orders of the Railroad Commission of the State of California.

At the date of this appraisal there were over 2,500 stockholders in this corporation. Not all of the stock sold is fully paid for and the company holds secured notes amounting to \$79,292.50 and has unsecured subscription notes amounting to \$19,450.23, these notes ranging from \$5.00 to over \$1,000.00. In addition to this the company holds about \$150,000.00 of notes from purchasers of stock, the collection of which it considers doubtful. The company's financing has been unique in that it accepted stock subscribers' notes and discounted them to obtain funds to carry on its construction. These notes bear interest and the stock is not issued until their full amount, with interest, has been paid.

The annual report made by the company to the Commission, as of June 30, 1914, shows under "Accounts Receivable" the \$79,292.50 in small notes mentioned above. Under "Loans and Notes Payable" it shows \$116,923.20, which consists of \$100,000.00 in notes secured by \$200,000.00 in bonds and \$16,923.20 in notes given in payment for material used in the construction of the road.

The following table shows outstanding securities at the end of each year since the company's organization:

Table Showing the Financial Condition of the Tidewater Southern Railway Company during 1912, 1913, and 1914.

[Taken from the company's Annual Reports to this Commission.]

No.	Items	1912	1913	1914
1	Mileage constructed		35.20	36.63
2	Capital stock	\$5,000,000 00	\$5,000,000 00	\$5,000,000 00
3	Capital stock—outstanding	3,334,938 00	2,874,252 00	2,896,207 00
4	Capital stock—held in treasury..	1,665,062 00	2,125,748 00	2,103,793 00
5	Mortgage bonds authorized.....		4,000,000 00	4,000,000 00
6	Mortgage bonds outstanding.....		206,000 00	275,500 00
	Total outstanding liability.....		\$1,080,252 00	\$1,171,707 00
	Total outstanding liability per mile of line.....		30,688 97	31,987 63

3. Revenue and Expenses.

The passenger traffic is the main source of revenue to the Tidewater Southern Railway Company, since it amounted to about 57 per cent of the total revenue for the fiscal year ending June 30, 1914. The following tabulation shows the most important features in connection with the revenue and expenses of the road, for the year ending June 30, 1914:

Passenger traffic—		
Number of passengers carried.....		88,976
Passenger revenue		\$37,744 37
Average fare per passenger.....		.42420
Passenger revenue per mile of operating road.....		\$1,170 73
Freight traffic—		
Freight revenue		\$21,551 16
Freight revenue per mile of operating road.....		668 46
Total traffic—		
Operating revenue		\$65,905 89
Operating revenue per mile of operating road.....		2,044 23
Operating expenses		58,326 45
Operating expenses per mile of operating road.....		1,809 13
Net operating revenue		7,579 44
Net operating revenue per mile of operating road.....		235 09
Operating ratio		88.499%
19—25069		

Items	1912	1913	1914
Earnings—			
Passenger		\$6,502 85	\$37,744 37
Baggage		50	58 12
Parlor, chair and special car			20 00
Express		256 07	1,611 26
Freight		19,955 82	21,551 16
Switching		160 00	71 50
Miscellaneous transportation revenue			4,624 00
Totals		\$26,875 24	\$65,680 41
Totals per mile		763 50	1,793 08
Earnings—			
Other than transportation			\$225 00
Station and car privileges			9 48
Storage		\$0 20	9 00
Car service		177 00	
Total operating revenue		\$27,052 44	\$65,905 89
Total operating revenue per mile		768 53	1,799 23
Expenses—			
Way and structure		\$1,514 38	\$7,777 01
Equipment		1,219 89	1,192 33
Traffic		1,010 54	4,619 55
Conducting-Transportation		10,421 49	27,370 92
General and miscellaneous		5,549 02	17,366 64
Totals		\$19,745 32	\$58,326 45
Total expenses per mile		560 94	1,592 31
Net operating revenue per mile		207 61	206 92
Interest accrued		\$6,128 30	\$12,323 99
Interest paid		3,982 50	10,886 49
Additions and betterments		\$366,160 31	\$168,997 60
Surplus for year		426 39	832 41

4. Original Cost.

The company reported the original cost of this railroad, including both operative and nonoperative property, to be \$1,295,485.21, as of April 30, 1914. The Commission's engineers have made a careful examination of the books of the company as of June 30, 1914, and have reported the original cost as shown thereon to be \$1,314,477.75. Some of the items included in this amount, however, were found to be operating expenses and not capital charges, and in this connection it should be said that the company has never closed its construction books. It has permitted them to remain open because of the fact that its officials consider the line to be incomplete on account of the construction still to be done between Modesto and Turlock and also because there are many items of expense connected with the sale of the stock and with pending lawsuits, which are considered to be capital charges which can not properly be charged to operation.

The company used full commercial tariff rates in figuring the cost of the transportation of construction freight over its own line, and the Commission's engineers in arriving at the original cost on what was thought to be a proper basis, have used a flat rate of 7 mills per ton per mile to cover this expense.

As has been previously stated the line was originally operated by steam and was later electrified, the electric operation commencing about fourteen months after the road was placed under steam operation. The Commission's engineers, from the company's books after making their corrections, have found that the original cost of the road as of June 30, 1914, was \$1,285,427.94, if the construction accounts were considered closed when steam operation started and if the electrification were treated as an addition and betterment. The original cost as of the same date would be \$1,306,618.32, if the company's accounts were considered as closed at the completion of the electric construction and commencement of electric operation. Both of these figures include operative and nonoperative property.

The determination as to which of these two figures should be considered as the original cost of this property seems to be one which can be left to future proceedings in which this valuation may be used for specific purposes and I shall make no further finding of original cost.

Attached hereto as Exhibit "E" is a detailed statement showing by Interstate Commerce Commission accounts the original cost as determined on both bases.

5. Reproduction Cost.

The company offered no objection to the figures found by the Commission's engineering department for the reproduction cost of its road, and I shall consequently accept these figures as correct. The methods followed by the department in arriving at its results have been so many times discussed and commented upon in the various opinions made by the Commission in these valuation cases, that I do not consider it necessary to again repeat what has been said in this connection in these other cases.

Basing my opinion upon the report of the Commission's engineering department, I find as a fact that the reproduction cost, as that term has hereinbefore been defined, of the operative property of the Tidewater Southern Railway Company, as of June 30, 1914, is the sum of \$644,026.26, and that the reproduction cost of the nonoperative property of the company as of the same date is the sum of \$92,802.49.

6. Reproduction Cost Less Depreciation.

The reproduction cost less depreciation is, of course, based upon the reproduction cost; and since no change has been made in that cost as found by our engineers, and the depreciated cost seems to have been

made up in conformity with the usual practice of the engineering department, which has been approved by the Commission in other similar proceedings, I shall accept those figures as being correct. I therefore find as a fact that the reproduction cost less depreciation, as that term has hereinbefore been defined, of the operative property of the Tidewater Southern Railway Company, as of June 30, 1914, is the sum of \$623,377.19, and that the reproduction cost less depreciation of the nonoperative property of the company as of the same date is the sum of \$90,166.49.

The foregoing opinion and findings are hereby approved and ordered filed as the opinion and findings of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of March, 1916.

EXHIBIT A.

Owning company, Tidewater Southern Railway Company; operating company, Tidewater Southern Railway Company; from Stockton to Modesto; counties, San Joaquin and Stanislaus.
Valuation as of April 30, 1911; main line first track, 32.21 miles; yard track, sidings, etc., 2.37 miles; total, 34.58 miles.

Class No.	Form No.	I. C. C. Acct. No.	Classes	Original cost	Reproduction value	Cond. per cent	Present value
40	1	1	Engineering	\$25,372 65	\$25,372 65	100	\$25,370 00
1	2	2	Right of way	261,484 22	261,484 22		89,500 00
2	3	3	Other land used in electric railway operations				
3	4	4	Grading	34,333 77	33,618 11	100	33,600 00
4	5	5	Ballast	33,860 90	33,860 90	100	33,850 00
5	6	6	Ties	65,355 61	65,355 61	95	62,120 00
6	7	7	Rails	139,727 96	139,729 96	100	139,320 00
7	8	8	Track fastenings and joints	30,171 88	30,171 88	99	29,910 00
8	9	9	Special work	868 89	868 89	90	860 00
9	10	10	Frogs and switches	4,021 48	4,021 48	98	3,960 00
10	11	11	Underground construction				
11	12	12	Paving	5,357 87	5,357 87	100	5,355 00
12	13	13	Tracklaying and surfacing	44,116 38	44,116 38	100	44,000 00
13	14	14	Roadway tools	3,263 30	1,584 58	50	750 00
14	15	15	Tunnels				
15	16	16	Elevated structures and foundations				
16	17	17	Steel bridges and trusses	21,499 46	21,499 46	97 1/2	21,000 00
17	18	18	Pile and frame trestles	21,438 34	21,438 34	90	19,500 00
18	19	19	Culverts	540 32	540 32	97	525 00
19	20	20	Fences and cattle guards	2,706 43	2,706 43	90	2,420 00
20	21	21	Crossings and signs	2,573 25	2,573 25	90	2,315 00
21	22	22	Interlocking plants				
22	23	23	Signal apparatus				
23	24	24	Telegraph and telephone lines	4,492 46	4,492 46	100	4,490 00
24	25	25	Poles and fixtures	24,973 13	24,973 13	99	24,750 00
25	26	26	Underground conduits				
26	27	27	Transmission system				
27	28	28	Distribution system	48,258 05	48,258 05	100	48,230 00
28	29	29	Dams, canals and pipe lines				
29	30	30	Power plant buildings				
30	31	31	Sub-station buildings	2,534 55	2,534 55	99	2,500 00
31	32	32	General office buildings	687 45	687 45	50	350 00
32	33	33	Shops and car houses	1,286 54	1,286 54	100	1,280 00
33	34	34	Stations and waiting rooms	4,156 00	4,156 00	96	3,990 00
34	35	35	Miscellaneous buildings				
35	36	36	Docks and wharves				
36	37	37	Power plant equipment				
37	38	38	Sub-station equipment	78 70	78 70	95	75 00
38	39	39	Shop equipment	106 42	106 42	94	100 00
39	40	40	Park and resort property	702 82	702 82	100	700 00
40	41	41	Cost of road purchased				
41	42	42	Injuries and damages				
42	43	43	Cars	20,524 45	20,524 45		19,300 00
43	44	44	Freight train cars	3,768 84	3,768 84		3,750 00
44	45	45	Steam locomotives	3,706 65	3,706 65		500 00
45	46	46	Electric locomotives	10,524 52	10,524 52		10,500 00
46	47	47	Electric equipment of cars	13,952 27	13,952 27		13,500 00
47	48	48	Other rail equipment				
48	49	49	Miscellaneous equipment	1,015 95	1,015 95		200 00
49	50	50	Law expenses	14,985 15	14,985 15		14,985 00
50	51	51	Taxes	4,537 41	4,537 41		4,535 00
51	52	52	Miscellaneous	247,129 93	247,129 93		247,130 00
52	53	53	Interest	2,331 09	2,331 09		2,330 00
53	54	54	Stores and supplies on hand for use in California	9,813 79	9,813 79		9,810 00
54	55	55	Grand totals	\$1,116,190 88	\$1,114,066 50		\$927,645 00
55	56	56	Average per mile for main track	34,630 30	34,555 03		26,888 58
56	57	57	Total, "road," I. C. C. accounts, 1-34 (inc.)	784,200 83	781,776 45		
57	58	58	Total, "equipment," I. C. C. accounts, 35-39 (inc.)	53,492 68	53,492 68		
58	59	59	Total, "general," I. C. C. accounts, 40-44 (inc.) (stores)	268,983 58	268,983 58		
59	60	60	Total, non-operative property (not included in above totals)	9,813 79	9,813 79		
60	61	61	Construction south of Modesto	178,994 33			
61	62	62		\$1,295,485 21			

EXHIBIT B.
Total Operative Property.

Owning company, Tidewater Southern Railway Company; operating company, Tidewater Southern Railway Company; division, main line; valuation unit, total operative property; from Stockton to Modesto; counties, San Joaquin and Stanislaus.

Valuation as of April 30, 1911; submitted with report of R. C. Ashworth, Assistant Engineer; date compiled, April, 1915; main line first track, 32.24 miles; yard tracks, sidings, etc., 2.37 miles; total, 34.61 miles.

Class No.	Form No.	I. C. C. No.	Classes	Original cost	Reproduction value	Cond. per cent	Present value
40	----	1	Engineering, 5 per cent of accounts 4-33, inclusive		\$23,920 34	100	\$23,920 34
1	1	2	Right of way, market value		49,233 50	100	49,233 50
2	2	3	Other land used in electric railway operations				
3	3	4	Grading		35,644 00	103	36,767 00
4	4	5	Ballast		23,518 00	100	23,518 00
5	5	6	Ties		53,817 00	90	48,435 00
6	6	7	Rails		149,016 00	97	143,903 00
7	7	8	Track fastenings and joints		29,029 00	95	28,142 00
8	8	9	Special work		3,722 00	96	3,589 00
9	9	10	Frogs and switches		2,666 00	97	2,591 00
10	10	11	Underground construction				
11	11	12	Paving		5,836 00	95	5,646 00
12	12	13	Tracklaying and surfacing		41,646 00	95	39,643 00
13	13	14	Roadway tools		1,625 00	64	975 00
14	14	15	Tunnels				
15	15	16	Elevated structures and foundations				
16	16	17	Steel bridges and trusses		20,564 00	96	20,088 00
17	17	18	Pile and frame trestles		23,166 00	90	21,796 00
18	18	19	Culverts		455 00	95	438 00
19	19	20	Fences and cattle guards		2,771 00	90	2,493 00
20	20	21	Crossings and signs		1,423 00	90	1,285 00
21	21	22	Interlocking plants				
22	22	23	Signal apparatus				
23	23	24	Telegraph and telephone lines		4,746 00	100	4,746 00
24	24	25	Poles and fixtures		24,948 00	97	24,166 00
25	25	26	Underground conduits				
26	26	27	Transmission system				
27	27	28	Distribution system		48,684 00	103	48,684 00
28	28	29	Dams, canals and pipe lines				
29	29	30	Power plant buildings				
30	30	31	Sub-station buildings		2,749 67	96	2,649 75
31	31	32	General office buildings		2,735 18	80	2,236 55
32	32	33	Shops and car houses		2,051 01	83	2,204 91
33	33	34	Stations and waiting rooms		3,279 40	96	3,167 61
34	34	35	Miscellaneous buildings		2,669 49	92	2,497 37
35	35	36	Docks and wharves				
36	36	37	Power plant equipment				
37	37	38	Sub-station equipment		80 00	97	78 00
38	38	39	Shop equipment		166 00	84	132 00
39	39	40	Park and resort property				
40	40	41	Cost of road purchased				
41	41	42	Injuries and damages, $\frac{1}{2}$ per cent of accounts 1 and 4 to 39, inclusive		2,758 47	100	2,758 47
42	42	43	Cars		20,276 00	100	20,276 00
43	43	44	Freight train cars		3,006 00	99	2,983 00
44	44	45	Steam locomotives				
45	45	46	Electric locomotives		10,930 00	100	10,930 00
46	46	47	Electric equipment of cars		14,073 00	100	14,073 00
47	47	48	Other rail equipment				
48	48	49	Miscellaneous equipment		1,081 91	32	313 40
49	49	50	Law expenses, 1 per cent of accounts 4 to 39, inclusive		4,784 06	100	4,784 06
50	50	51	Taxes, $\frac{1}{2}$ per cent of accounts 4 to 39, inclusive		2,638 86	100	2,638 86
51	51	52	Miscellaneous, 1 per cent of accounts 1 and 4 to 43, inclusive, except 41		5,618 76	100	5,618 76
52	52	53	Interest, 3 per cent of accounts 1 and 4 to 41, inclusive, except 41		17,024 82	100	17,024 82
53	53	54	Stores and supplies on hand for use in California		10,213 79	100	10,213 79
54	54	55	Grand totals		864,026 26	97	803,377 19
55	55	56	Average per mile for main track		19,976 00	97	19,335 32
56	56	57	Total, "road," I. C. C. accounts, 1-34 (inc.)		551,620 59	96	531,733 53
57	57	58	Total, "equipment," I. C. C. accounts, 35-39 (inc.)		49,366 91	98	48,635 40
58	58	59	Total, "general," I. C. C. accounts, 40-41 (inc.)		32,824 97	100	32,824 97
59	59	60	Total, non-operative property (not included in above totals)		92,892 40	97	90,116 49
60	60	61	Total operative and non-operative property		736,828 75	97	713,493 68
61	61	62	Total lands, operative and non-operative, including multiple, etc.		116,817 25		
62	62	63	Total operative property				

EXHIBIT C.

Total Non-Operative Property.

Owning company, Tidewater Southern Railway Company; operating company, Tidewater Southern Railway Company; division, non-operative property; valuation unit, 19 miles; from Stockton to Merced River; counties, San Joaquin, Stanislaus and Merced.

Valuation as of April 30, 1914; submitted with report of R. C. Ashworth, Assistant Engineer; date compiled, April, 1915; main line first track, 4.19 miles; yard tracks, sidings, etc., .06 miles; total, 4.25 miles; 19 miles right-of-way.

CLASS No.	Form No.	I. C. C. Acct. No.	Classes	Original cost	Reproduction value	Cond. per cent	Present value
40	1	1	Engineering, 5 per cent of accounts 4 to 33, inclusive		\$2,763 05	100	\$2,763 05
1	1	2	Right of way, market value		31,276 00	100	31,276 00
2	2	3	Other land used in electric railway operations				
3	3	4	Grading		9,372 00	100	9,372 00
4	4	5	Ballast				
5	5	6	Ties		7,938 00	90	7,145 00
6	6	7	Rails		18,778 00	95	17,817 00
7	7	7	Track fastenings and joints		4,218 00	95	4,002 00
8	8	8	Special work				
9	9	8	Frogs and switches		118 00	95	111 00
10	10	9	Underground construction				
11	11	10	Paving				
12	12	11	Tracklaying and surfacing		4,558 00	94	4,265 00
13	13	12	Roadway tools				
14	14	13	Tunnels				
15	15	14	Elevated structures and foundations				
16	15	15	Steel bridges and trusses				
17	16	15	Pile and frame trestles				
18	17	15	Culverts		2,497 00	95	2,373 00
19	18	16	Fences and cattle guards		373 00	90	336 00
20	19	16	Crossings and signs		599 00	90	539 00
21	20	17	Interlocking plants				
22	21	17	Signal apparatus				
23	22	18	Telegraph and telephone lines				
24	23	19	Poles and fixtures				
25	24	20	Underground conduits				
26	25	21	Transmission system				
27	26	22	Distribution system				
28	27	23	Dams, canals and pipe lines				
29	28	24	Power plant buildings				
30	29	25	Sub-station buildings				
31	30	26	General office buildings				
32	31	27	Shops and car houses				
33	32	28	Stations and waiting rooms				
34	33	28	Miscellaneous buildings		6,201 77	90	6,133 19
35	34	29	Docks and wharves				
36	35	30	Power plant equipment				
37	36	31	Sub-station equipment				
38	37	32	Shop equipment				
39	38	33	Park and resort property		608 18	75	481 76
41	---	34	Cost of road purchased				
42	---	42	Injuries and damages, 1 per cent of accounts 1 and 4 to 39, inclusive		290 12	100	290 12
43	39	35	Cars				
44	40	35	Freight train cars				
45	41	36	Steam locomotives				
46	42	36	Electric locomotives				
47	43	37	Electric equipment of cars				
48	44	38	Other rail equipment				
49	45	39	Miscellaneous equipment				
50	---	40	Law expenses, 1 per cent of accounts 4 to 39, inclusive		552 61	100	552 61
51	46	43	Taxes, 1 per cent of accounts 4 to 39, inclusive		276 30	100	276 30
52	46	44	Miscellaneous, 1 per cent of accounts 1 and 4 to 43, inclusive, except 41		591 43	100	591 43
53	---	41	Interest, 3 per cent of accounts 1 and 4 to 44, inclusive, except 41		1,792 08	100	1,792 08
55	47	---	Stores and supplies on hand for use in California				
			Grand totals		\$12,802 49	97	\$90,116 49
			Average per mile for main track				
			Total, "road," I. C. C. accounts, 1-34 (inc.)		89,300 00	90	86,614 00
			Total, "equipment," I. C. C. accounts, 35-39 (inc.)				
			Total, "general," I. C. C. accounts, 40-44 (inc.)		3,502 49	100	3,502 49
			Total, non-operative property (not included in above totals)				
			Total non-operative property				

EXHIBIT D.
Total Operative and Non-Operative Property.

Owning company, Tidewater Southern Railway Company; operating as Tidewater Southern Railway Company; operating division, operating and non-operating; valuation unit, all property; from Stockton to Merced River; counties, San Joaquin, Stanislaus and Merced.

Valuation as of April 30, 1914; submitted with report of R. C. Ashworth, assistant engineer; date compiled, April, 1915; line first track, 36.73 miles; yard tracks, sidings, etc., 2.43 miles; total, 39.16 miles.

Class No.	Form No.	I. C. C. Acct. No.	Classes	Original cost	Reproduction value	Cond. per cent	Present value
40	----	1	Engineering, 5 per cent of accounts 4 to 33, inclusive		\$26,683 39	100	\$26,683 39
1	1	2	Right of way, market value		89,569 50	100	80,569 50
2	2	3	Other land used in electric railway operations				
3	3	4	Grading		45,016 00	102	45,937 00
4	4	5	Ballast		22,518 00	100	22,518 00
5	5	6	Ties		61,755 00	99	55,580 00
6	6	7	Rails		158,824 00	97	152,820 00
7	7	8	Track fastenings and joints		33,847 00	95	32,144 00
8	8	9	Special work		3,222 00	96	3,380 00
9	9	8	Frogs and switches		2,784 00	97	2,702 00
10	10	9	Underground construction				
11	11	10	Paving		5,836 00	96	5,606 00
12	12	11	Tracklaying and surfacing		46,204 00	95	43,908 00
13	13	12	Roadway tools		1,625 00	60	975 00
14	14	13	Tunnels				
15	15	14	Elevated structures and foundations				
16	15	15	Steel bridges and trusses		20,034 00	96	20,068 00
17	16	15	Pile and frame trestles		29,196 00	90	20,705 00
18	17	15	Culverts		2,952 00	95	2,811 00
19	18	16	Fences and cattle guards		3,114 00	90	2,829 00
20	19	16	Crossings and signs		2,022 00	90	1,824 00
21	20	17	Interlocking plants				
22	21	17	Signal apparatus				
23	22	18	Telegraph and telephone lines		4,746 00	100	4,746 00
24	23	19	Poles and fixtures		24,918 00	97	24,166 00
25	24	20	Underground conduits				
26	25	21	Transmission system				
27	26	22	Distribution system		48,684 00	100	48,684 00
28	27	23	Dams, canals and pipe lines				
29	28	24	Power plant buildings				
30	29	25	Sub-station buildings		2,749 67	96	2,649 75
31	30	26	General office buildings		2,705 18	80	2,236 55
32	31	27	Shops and car houses		2,651 01	82	2,204 91
33	32	28	Stations and waiting rooms		3,279 40	96	3,167 61
34	33	28	Miscellaneous buildings		8,901 26	92	8,630 56
35	34	29	Docks and wharves				
36	35	30	Power plant equipment				
37	36	31	Sub-station equipment		80 00	97	78 00
38	37	32	Shop equipment		163 00	80	132 00
39	38	33	Park and resort property		6 8 18	75	481 76
40	39	34	Cost of road purchased				
41	40	35	Injuries and damages, $\frac{1}{2}$ per cent of accounts 1 and 4 to 39, inclusive		3,048 59	100	3,048 59
42	41	36	Cars		20,276 00	100	20,276 00
43	42	37	Freight train cars		3,005 00	99	2,983 00
44	43	38	Steam locomotives				
45	44	39	Electric locomotives		10,930 00	100	10,930 00
46	45	40	Electric equipment of cars		14,073 00	100	14,073 00
47	46	41	Other rail equipment				
48	47	42	Miscellaneous equipment		1,081 91	32	343 40
49	48	43	Law expenses, 1 per cent of accounts 4 to 33, inclusive		5,336 67	100	5,336 67
50	49	44	Taxes, $\frac{1}{2}$ per cent of accounts 4 to 39, inclusive		2,915 16	100	2,915 16
51	50	45	Miscellaneous, 1 per cent of accounts 1 and 4 to 43, inclusive, except 41		6,210 19	100	6,210 19
52	51	46	Interest, 3 per cent of accounts 1 and 4 to 44, inclusive, except 41		18,816 85	100	18,816 85
53	52	47	Stores and supplies on hand for use in California		10,213 79	100	10,213 70
54	53	48	Grand totals		\$736,828 75	97	\$713,493 68
55	54	49	Average per mile for main track				
56	55	50	Total, "road," I. C. C. accounts, 1-34 (inc.)		640,920 59	96	618,347 53
57	56	51	Total, "equipment," I. C. C. accounts, 35-39 (inc.)		49,366 91	98	48,605 40
58	57	52	Total, "general," I. C. C. accounts, 40-44 (inc.)		36,327 46	100	36,327 46
59	58	53	Total, non-operative property (not included in above totals)				
60	59	54	Total operative and non-operative property				

EXHIBIT E.

Table Showing Original Cost as of June 30, 1914.

Class No.	Form No.	I. C. C. Act No.	Classes	Original cost if construction accounts are closed Oct., 1912, at beginning of steam service	Original cost if construction accounts are closed Dec., 1913, at beginning of electric operations
40	1	1	Engineering	\$28,290 93	\$28,290 93
1	1	2	Right of way		
2	2	3	Other lands used in electric railway operations.....	*393,385 20	393,385 20
3	3	4	Grading	42,742 50	42,742 50
4	4	5	Ballast	24,268 69	24,268 69
5	5	6	Ties	74,115 59	74,115 59
6	6	7	Rails		
7	7	7	Track fastenings and joints.....	190,894 39	190,894 39
8	8	8	Special work	6,248 27	6,248 27
9	9	8	Frogs and switches.....		
11	11	10	Paving	5,557 87	5,557 87
12	12	11	Tracklaying and surfacing.....	49,638 36	49,638 36
13	13	12	Roadway tools	2,351 32	2,351 32
16	15	15	Steel bridges and trusses.....		
17	16	15	Pile and frame trestles.....	47,324 17	47,324 17
18	17	15	Culverts		
19	18	16	Fences and cattle guards.....	6,239 43	6,239 43
23	22	18	Telephone and telegraph lines.....	4,441 80	4,441 80
24	23	19	Poles and fixtures.....	21,361 75	21,361 75
27	26	22	Distribution system	47,087 00	47,087 00
30	29	25	Sub-station buildings	2,534 55	2,534 55
31	30	26	General office buildings.....	2,727 00	2,727 00
32	31	27	Shops and car houses.....	1,393 70	1,393 70
33	32	28	Stations and waiting rooms.....	4,191 44	4,191 44
34	33	28	Miscellaneous buildings.....	7,248 99	7,248 99
37	36	34	Sub-station equipment	78 79	78 79
38	37	32	Shop equipment	164 10	164 10
39	38	33	Park and resort property.....	698 18	698 18
42	41	42	Injuries and damages	30 00	30 00
43	39	35	Cars	24,185 74	24,185 74
44	40	35	Freight train cars	593 06	593 06
45	41	36	Steam locomotives	3,796 65	3,796 65
46	42	36	Electric locomotives	10,746 72	10,746 72
47	43	37	Electric equipment of cars.....	13,933 69	13,933 69
49	45	39	Miscellaneous equipment	1,015 95	1,015 95
50	46	40	Law expenses	6,785 25	6,785 25
51	46	43	Taxes	3,276 13	4,916 88
52	46	44	Miscellaneous	247,135 16	247,135 16
53	46	41	Interest	7,411 30	6,493 06
Totals				\$1,284,538 58	\$1,285,261 09
Losses operating freight and passenger trains during construction				889 36	21,357 23
Total chargeable to capital account.....				\$1,285,427 94	\$1,306,618 32

*Includes \$350,000.00 stock.

†Includes \$7,800.00 stock.

DECISION No. 3139.

IN THE MATTER OF THE APPLICATION OF THE BOARD OF SUPERVISORS OF ALAMEDA COUNTY FOR THE OPENING OF A PUBLIC ROAD AT GRADE ACROSS THE RIGHT OF WAY OF CENTRAL PACIFIC RAILWAY COMPANY.

Application No. 2050.

Decided March 3, 1916.

Applicant granted permission to construct an undergrade crossing under the tracks of the Central Pacific Railroad Company at Niles, expenses thereof to be shared equally by the railroad and applicant; provided that the present grade crossing immediately east of the proposed crossing shall be closed to traffic.

W. H. L. Hines and *M. H. Clark*, for Applicant.

Geo. D. Squires, for Central Pacific Railway Company.

A. E. Loder, for State Highway Commission.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This application was made, and the hearing was subsequently held, under section 2694 of the Political Code, as amended January 2, 1912, which requires that after viewers have been appointed to view a crossing which a county proposes to open, a certified copy of the petition requesting the opening of such crossing, and of the order appointing viewers, be submitted to the Commission, and a hearing thereafter held, at which hearing the Commission shall hear the evidence and "determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation and maintenance, use and protection of said crossing."

Although application is made herein for a grade crossing, the construction of a subgrade crossing is contemplated, and previous to the hearing negotiations had been carried on by the county with the railway company with that in view.

The town of Niles is not incorporated and its streets and roads are under the jurisdiction of the supervisors of Alameda County. The road on which this crossing is proposed forms a part of the state highway system and the State Highway Commission is also interested in this crossing. The grade separation here proposed will result in closing a grade crossing now used and located some 250 feet east of the subway, and there can be no question as to the desirability of granting this application.

Although no written agreement has been reached concerning the division of the expense of construction and maintenance the question

has been discussed by the interested parties and this division has been tentatively agreed upon on the following basis:

The cost of the crossing, estimated to be \$33,000.00, will be borne equally by the railroad company and the county; the cost of the maintenance incurred in connection with the steel bridge and the bridge abutments will be assumed by the railroad company, and the expense of operating and keeping in repair the pump, which will be needed to keep the subway drained, will be borne by the State Highway Commission. This division of expense seems to be fair and will be covered in the order. Six months appears to be a reasonable time to allow for this construction.

I recommend the following form of order:

ORDER.

Board of supervisors, Alameda County, having applied to the Commission for permission to construct a crossing under the tracks of the Central Pacific Railway Company, and a public hearing having been held, and it appearing that this application should be granted subject to the conditions hereinafter specified,

It is hereby ordered that the board of supervisors of Alameda County be and hereby are authorized to construct a crossing under the tracks of the Central Pacific Railway Company about 250 feet west of the present grade crossing, in the town of Niles, Alameda County, California, at the railway company's engineer station 94 plus 25, at the point shown by the map attached to the application, subject to the following conditions, viz:

(1) The construction of the subway shall conform in all clearances to those specified in the Commission's General Order No. 26.

(2) The expense of constructing this subway shall be borne one-half by the Central Pacific Railway Company and one-half by the board of supervisors of Alameda County.

(3) The expense of maintaining the steel bridge and bridge abutments shall be borne by the Central Pacific Railway Company, and the expense of operating and maintaining the necessary pump to keep the subway drained shall be borne by the State Highway Commission. The highway commission shall also maintain the roadway beneath the tracks.

(4) The present grade crossing about 250 feet east of this proposed subway shall be legally closed and abandoned as a public highway crossing.

(5) The subway shall be constructed and opened for use six months from the date of this order.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to

revoke its permission, if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of California.

Dated at San Francisco, California, this 3d day of March, 1916.

DECISION No. 3140.

IN THE MATTER OF THE APPLICATION OF THE SOUTH LOS ANGELES WATER COMPANY (1) FOR AN ORDER AUTHORIZING THE SALE OF ALL OF ITS PROPERTY TO THE SOUTH LOS ANGELES LAND AND WATER COMPANY; (2) FOR AN ORDER AUTHORIZING THE SOUTH LOS ANGELES WATER COMPANY TO ACQUIRE ONE THOUSAND SEVEN HUNDRED SHARES OF THE CAPITAL STOCK AND ONE HUNDRED THOUSAND DOLLARS OF FIRST MORTGAGE BONDS OF THE SOUTH LOS ANGELES LAND AND WATER COMPANY; (3) FOR AN ORDER AUTHORIZING THE SOUTH LOS ANGELES LAND AND WATER COMPANY TO PURCHASE THE PROPERTY OF THE SOUTH LOS ANGELES WATER COMPANY.

Application No. 1430.

Decided March 3, 1916.

The South Los Angeles Land and Water Company was heretofore authorized to issue \$75,000.00 par value of stock and \$75,000.00 face value of bonds in exchange for the water system of the South Los Angeles Water Company. It now applies and is granted permission, under supplemental order, to issue \$75,000.00 par value of stock and \$60,000.00 face value of bonds in exchange for said system, all conditions specified in the former order to be applicable hereto.

REPORT OF THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

Whereas this Commission, by Decision No. 2178, dated February 27, 1915 (Vol. 6, Opinions and Orders of the Railroad Commission of California, page 226), authorized South Los Angeles Water Company to sell its water system to South Los Angeles Land and Water Company for \$75,000.00 par value of stock and \$75,000.00 face value of 6 per cent bonds; and

Whereas the order found in said Decision No. 2178 provides that it shall not become effective until this Commission has issued a supplemental order approving the deed and contract of transfer from South Los Angeles Water Company to South Los Angeles Land and Water Company nor until South Los Angeles Land and Water Company shall have stipulated that it will undertake all obligations of service now properly binding upon South Los Angeles Water Company, and shall have submitted to the Commission for its approval a copy of its proposed deed of trust; and

Whereas this Commission in a first supplemental order dated November 23, 1915 (Decision No. 2929), approved a deed of trust submitted by South Los Angeles Land and Water Company and in a second supplemental order, dated December 31, 1915 (Decision No. 3018), approved a grant deed and agreement of sale (said agreement of sale including a stipulation as to service), all in accordance with the conditions of the Commission's original Decision No. 2178, as set forth above; and

Whereas South Los Angeles Water Company has now applied to the Commission for an order authorizing it to sell its water system to South Los Angeles Land and Water Company for \$75,000.00 par value of stock and \$60,000.00 face value of 6 per cent first mortgage bonds; and

Whereas South Los Angeles Land and Water Company has applied to this Commission for an order authorizing it to issue \$75,000.00 par value of stock and \$60,000.00 face value of 6 per cent first mortgage bonds in payment for the property to be acquired from South Los Angeles Water Company, and to execute a new mortgage or deed of trust in substantially the same form and tenor as the mortgage or deed of trust attached to the application herein and marked Exhibit No. 4; and

Whereas applicants herein have asked permission to execute a new agreement of sale substantially in the same form and tenor as the agreement of sale attached to the application herein and marked Exhibit No. 5, said agreement of sale containing a stipulation whereby South Los Angeles Land and Water Company agrees to assume all existing contracts of whatever kind or nature and all obligations of service now properly binding upon South Los Angeles Water Company in connection with the production, sale or distribution of water for domestic or irrigation purposes; and good cause appearing,

It is hereby ordered that South Los Angeles Water Company and South Los Angeles Land and Water Company be granted authority, and they are hereby granted authority, to execute an agreement of sale substantially in the same form and tenor as the agreement of sale attached to the application herein and marked Exhibit No. 5, by which it is proposed that South Los Angeles Water Company shall sell to South Los Angeles Land and Water Company for \$75,000.00 par value of capital stock and \$60,000.00 face value of 6 per cent first mortgage bonds the following described property:

“Lots thirty-one (31) to forty (40), inclusive, in block ‘C’; lots six (6), seven (7), eight (8), ten (10), eleven (11), twelve (12) and thirteen (13) in block ‘D’ of Nadeau Vineyard Tract No. 1, as per map recorded in Book 28, page 21, Miscellaneous Records of said county;

Lot fifty-nine (59), block two (2) of the Aldine Square tract, in the city of Vernon, county of Los Angeles;

Together with all rights of way, franchises, buildings, wells, pumping machinery, towers and tanks, distributing system, meters, service connections, hydrants, and all other property of any kind and character situate on or appurtenant to said above described real property."

It is hereby further ordered that South Los Angeles Land and Water Company be given authority, and it is hereby given authority, to issue at not less than the par value thereof \$75,000.00 par value of common capital stock in lieu of a like amount of stock, the issue of which was authorized by Decision No. 2178, dated February 27, 1915 (Vol. 6, Opinions and Orders of the Railroad Commission of California, page 226).

It is hereby further ordered that South Los Angeles Land and Water Company be given authority, and it is hereby given authority, to issue at not less than the face value thereof \$60,000.00 face value of 6 per cent first mortgage bonds in lieu of \$75,000.00 face value of 6 per cent first mortgage bonds, the issue of which was authorized by Decision No. 2178, dated February 27, 1915 (Vol. 6, Opinions and Orders of the Railroad Commission of California, page 226).

It is hereby further ordered that South Los Angeles Land and Water Company be given authority, and it is hereby given authority, to execute a mortgage or deed of trust to Los Angeles Trust and Savings Bank, trustee, to secure the payment of \$75,000.00 face value of 6 per cent first mortgage bonds, said mortgage or deed of trust to be substantially in the same form and tenor as the mortgage or deed of trust attached to the application herein and marked Exhibit No. 4. The authority herein granted to execute said mortgage or deed of trust is in lieu of the authority granted by Decision No. 2929, dated November 23, 1915.

The authority herein granted is granted upon the following conditions and not otherwise:

1. The stock and bonds herein authorized to be issued shall be transferred to South Los Angeles Water Company in full payment for the water properties to be acquired as hereinbefore set forth.

2. The stock and bonds herein authorized to be issued shall not be binding upon this Commission, or any other body, as a measure of the value of the water properties which South Los Angeles Land and Water Company is herein authorized to acquire.

3. The properties herein authorized to be sold and transferred are to be transferred to South Los Angeles Land and Water Company free from any and all encumbrances.

4. The approval herein given of the aforesaid mortgage or deed of trust is for the purpose of this proceeding only and an approval only in so far as this Commission has jurisdiction under the terms of the Public

Utilities Act, and is not intended as an approval of said mortgage or deed of trust as to any other legal requirements to which said mortgage or deed of trust may be subject.

5. South Los Angeles Land and Water Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock and bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission, stating the sale of said stock and bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

6. The authority herein granted is conditioned upon the payment by applicants of the fee prescribed in the Public Utilities Act, as amended.

7. The authority herein given to issue stock and bonds shall apply only to such stock and bonds as may be issued prior to July 31, 1916.

It is hereby further ordered that the order of this Commission found in Decision No. 2178, dated February 27, 1916 (Vol. 6, Opinions and Orders of the Railroad Commission of California, page 226), and the order found in Decision No. 2929, dated November 23, 1915, in so far as said orders relate to the issue of stocks and bonds and to the execution of a mortgage or deed of trust, shall be vacated and set aside.

Dated at San Francisco, California, this 3d day of March, 1916.

Decision No. 3141, grade crossing; not printed. See end of volume.

DECISION No. 3142.

IN THE MATTER OF THE APPLICATION OF ONTARIO-UPLAND GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF STOCK AND BONDS AND THE EXECUTION OF A MORTGAGE SECURING SAID BONDS.

Application No. 2027.

Decided March 4, 1916.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas this Commission by Decision No. 3094, dated February 14, 1916, has authorized applicant herein to issue \$60,000.00 face value of 20-year 6 per cent bonds, subject to the conditions specified in said decision; and

Whereas one of the conditions reads: "Applicant shall submit to this Commission a revised deed of trust and shall not execute any deed of

trust until it shall have obtained a supplemental order approving the same"; and

Whereas applicant herein on March 1, 1916, has in pursuance of the aforementioned condition filed a revised copy of its proposed deed of trust, securing the payment of \$100,000.00 face value of first and refunding 20-year 6 per cent gold bonds, said revised copy having been marked "Exhibit B Amended" and attached to the application herein; and good cause appearing,

It is hereby ordered that Ontario-Upland Gas Company be given authority and hereby is given authority to execute a deed of trust in substantially the same form and tenor as the deed of trust attached to the application herein and marked "Exhibit B Amended."

Dated at San Francisco, California, this 4th day of March, 1916.

DECISION No. 3143.

CITY OF RICHMOND

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Case No. 903.

Decided March 4, 1916.

Complainant attacks as inadequate defendant's station facilities in the city of Richmond, particularly the waiting room and toilet facilities, and petitions the Commission to direct that defendant construct a new and modern depot at the point named. *Held*, after review of the evidence it appears that the main cause of complaint is the lack of proper waiting room facilities, and defendant is accordingly directed to provide a suitable women's waiting room and install adequate and sanitary facilities therein.

D. J. Hall, for Complainant.

Paul Burke, for Defendant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is a complaint filed by the City of Richmond, a municipal corporation, alleging that the freight and passenger station maintained by The Atchison, Topeka and Santa Fe Railway in the city of Richmond is unsightly in appearance and is inadequate for the use of the public in the transaction of its business with the railroad. Complainant requests that the Commission make its order requiring the immediate erection of a modern and adequate freight and passenger station in the city of Richmond which will be of such character as shall be deemed adequate and proper by the Commission. The defendant filed its answer denying the material allegations of the complaint. A public hearing was held at

Richmond on February 21, 1916, the matter was submitted and is now ready for decision.

The station maintained by The Atchison, Topeka and Santa Fe Railway Company at the foot of Macdonald avenue in the city of Richmond, against which this complaint is directed, is a frame structure of the type known as a combined freight and passenger station. A portion of the structure has two stories and on the upper floor offices have been provided for the agent and roadmaster. The baggage and express room is located in a separate building closely adjacent to the main structure.

An investigation made by the Commission shows the ground floor space to be divided as follows:

<i>For freight purposes.</i>		Square feet
Freight room, 100' 4" x 32' 2"-----	equals	3,227
Less freight office, 14' x 11' 9"-----	equals	164
Net freight room-----		3,063
Freight platforms -----		5,437
<i>Passenger accommodations.</i>		
Office and lobby, 22' x 39' 4"-----	equals	865
Waiting room, 17' x 22'-----	equals	374
Open waiting room, 16' 6" x 22'-----	equals	363
Total -----		1,602
Baggage room, 38' 6" x 20' 3"-----	equals	780

There are no toilet accommodations within the station building. The toilets are located at some distance from the station and are not of modern type or of sanitary construction.

The complainant presented testimony in regard to the unsightly condition of the present structure, the inadequate waiting-room space, the lack of a separate waiting room for women, the inconvenient location of the toilets and the unsanitary manner in which these toilets are maintained. Testimony was also taken to show that the approaches to the station were not kept in proper condition.

The present station of the Santa Fe in Richmond was built several years ago and its style of architecture is probably not one which would be adopted if a station were to be built today. At the same time the station is some distance removed from the business or residence sections of the city, and there are no improvements in its immediate neighborhood which would tend in any way to make its appearance objectionable by comparison, and I hardly believe, under these conditions, the testimony directed against the appearance of the station should be given much weight.

The complaints that waiting-room space is inadequate, that there is not a waiting room for women, and that the toilet facilities are not modern and sanitary, are of much more force.

Although the complaint alleged inadequate freight facilities, the complainant made no attempt to prove that they actually were inadequate, and from the investigation made by the Commission I am satisfied that they are ample. The complainant's case for a new depot, therefore, with the appearance of the station eliminated, rests entirely on the inadequacy of the waiting room, the lack of a separate waiting room for women, and inadequate toilet facilities. The matter of the approaches is to some extent independent, as present conditions could exist with a new station.

While I am satisfied that all three of these complaints are justified I do not believe that they are serious enough for the Commission to require the railway company to make an expenditure of \$10,000.00 or more to rectify them at this time. As far as the toilet facilities are concerned, it appears that they have not been made modern because no sewer has been available, but that connection can now be made with a sewer, and that it would have been done before this had defendant not desired to await the outcome of this case. I believe that the construction of a waiting room for women, of not less than two hundred and fifty (250) square feet floor area, will be ample to remove that cause of complaint, and that the construction of the women's waiting room will make the total waiting-room facilities of the station ample to serve the needs of Richmond for some time to come. There is no question, of course, but that ample modern and sanitary toilet facilities should be installed in the station.

I find as a fact that the waiting-room facilities of the Richmond station of The Atchison, Topeka and Santa Fe Railway Company at Macdonald avenue are inadequate, and that proper toilet facilities are lacking, and I further find that it is reasonable that the railway should remove these causes of complaint.

I believe the company should also construct proper sidewalks and roads to the station, from the street, over its station grounds.

I recommend the following form of order:

ORDER.

City of Richmond (a municipal corporation) having made complaint that the freight and passenger station of The Atchison, Topeka and Santa Fe Railway Company at the foot of Macdonald avenue in the city of Richmond is unsightly and inadequate, and a public hearing having been held and the Commission being fully advised in the premises,

It is hereby ordered that The Atchison, Topeka and Santa Fe Railway Company shall construct, in connection with its station at Macdonald avenue, Richmond, a suitable women's waiting room with a floor area of not less than two hundred and fifty (250) square feet; that it shall

construct in the station building ample and modern sanitary toilets and that it shall satisfactorily improve the approaches to the station.

It is further ordered that plans for this construction shall be filed with the Commission, for its approval, thirty (30) days from the date of this order and that the improvements herein ordered shall be completed ninety (90) days from the date on which plans for same have been approved by the Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 4th day of March, 1916.

Decisions Nos. 3144, 3145, 3146, 3147 and 3148, grade crossings; not printed.
See end of volume.

DECISION No. 3149.

JAMES S. NAISMITH

vs.

BROOKDALE LAND COMPANY, MOUNTAIN LIGHT AND WATER COMPANY, AND COUNTY OF SANTA CRUZ.

Case No. 904.

Decided March 11, 1916.

Complainant alleges that defendant, Brookdale Land Company, had conveyed to the county of Santa Cruz, without the consent of this Commission, certain rights to its water, and that consequently its consumers suffered during the dry season owing to a shortage of water. Defendant contends that the transfer of public utility property to a political subdivision of the State does not require the sanction of the Commission. Such contention overruled.

Parties in interest reaching an agreement, the following order is made: Brookdale Land Company to furnish its consumers with an adequate supply of water, to use the remaining water to generate electricity, which water, after passing through the generator, shall be permitted to flow down to the fish hatchery.

P. L. Benjamin, for Complainant.

George T. Wright, for defendant Brookdale Land Company.

John C. Hughes, for defendant Mountain Light and Water Company.

George W. Smith, district attorney, for defendant County of Santa Cruz.

Robert Duke, for State Fish and Game Commission.

REPORT OF THE COMMISSION.

This is a complaint brought by James S. Naismith, a householder in the village of Brookdale, Santa Cruz County, against Brookdale Land Company, the County of Santa Cruz and Mountain Light and Water

Company, for the purpose of having a certain agreement between the defendants Brookdale Land Company and the County of Santa Cruz declared null and void, and for a further order prohibiting the defendants Brookdale Land Company and Mountain Light and Water Company from using any of the waters of the stream known as Clear Creek for any other purposes than those of supplying the inhabitants and property owners of Brookdale with water for domestic and other necessary purposes, and of generating electricity from the surplus water of said creek for supplying said inhabitants and property owners with electric light and power, and prohibiting defendant County of Santa Cruz from taking, receiving, or demanding for the purpose of said fish hatchery all or any portion whatever of said water except such portion as after having been properly employed for the purpose of generating electricity would go to waste if not used by said County of Santa Cruz for the purposes of said fish hatchery.

A public hearing was held in San Francisco on February 23, 1916. From the evidence it appears that defendant Brookdale Land Company was incorporated several years ago for the purposes, among others, of acquiring, owning, holding, dealing in, selling and disposing of real estate and supplying water and electric light and power to the residents and property owners of the village of Brookdale and its immediate vicinity. Directly after its incorporation Brookdale Land Company acquired all the water rights upon Clear Creek, Santa Cruz County, which are the subject of this controversy, and also all the land comprising the village of Brookdale with the exception of a few lots which had been sold by its predecessor.

On May 7, 1912, said Brookdale Land Company executed a deed which purported to transfer and convey to the County of Santa Cruz a certain parcel of land, certain easements and all of the waters of the west branch of Clear Creek, for use by said county in the operation and maintenance of a fish hatchery. The County of Santa Cruz gave merely nominal consideration for said property and the deed contains a provision that if the County of Santa Cruz or its successors "cease without any good or valid reason to use said waters for said purposes and to maintain said hatchery to its reasonable capacity for hatching trout for a period of one year, then all of the lands or premises, together with the rights of way, water rights and appurtenances hereby conveyed shall revert to the party of the first part (the County of Santa Cruz) * * *."

This deed was executed shortly after the passage of the Public Utilities Act but without the authority of this Commission and as the grantor was a water corporation and as the water rights transferred were a part of the grantor's system "necessary or useful in the performance of its duties to the public," the transfer of the water rights is

void, although there is no question but that all of the parties acted in good faith.

The novel point was raised by the defendant County of Santa Cruz that that portion of the Public Utilities Act prohibiting the sale, lease, assignment, mortgage, disposal or incumbrance of all or any part of the utility's property necessary or useful in the performance of its duties to the public, without first obtaining an order from this Commission authorizing the same, does not apply to a transfer to or an incumbrance in favor of a political subdivision of the State of California. We have been unable to find anything in either the language or the spirit of the Public Utilities Act, however, which would in our opinion justify such a contention.

Since its organization the Brookdale Land Company has been disposing of portions of its land in Brookdale and it has thus far sold over one hundred parcels of this land for residence purposes. Moreover, the evidence shows that Brookdale has a fairly large summer population, one witness having testified that its summer residents number approximately 2,000.

There appears to be no doubt but that the inhabitants of Brookdale have been, from time to time, subjected to more or less serious shortages of water and if the County of Santa Cruz or its lessee, the State Fish and Game Commission, had been inclined and able to enforce the terms of the deed above mentioned, the great majority of the residents of Brookdale would have been deprived of water during the dry months, as the evidence shows that 185 out of the 220 consumers receive water which, if the deed were valid, would belong to the County of Santa Cruz and which the water company would have no right to furnish to its private consumers.

After supplying the residents of Brookdale with water defendant Brookdale Land Company has used the surplus water for the purpose of operating its hydroelectric plant, which is situated considerably below all of its consumers; so that after the water has passed through its power plant it has no further use for it and the subsequent use by the County of Santa Cruz in its fish hatchery cannot interfere with the rights or services of any other consumers.

Toward the close of the hearing and after considerable discussion the parties agreed to a settlement of the case and they thereafter filed a written stipulation, which seems to us absolutely fair to the conflicting rights and interests of the various parties. We shall embody the terms of the stipulation so far as we can properly do so in the following order. As to the remaining points covered by the stipulation, the Commission expressed its opinion at the hearing that it would be necessary for Brookdale Land Company and Mountain Light and Water Company

to execute a new conveyance to the County of Santa Cruz. This conveyance has been prepared and a formal application has been filed (Application No. 2112) asking this Commission to authorize the applicants (who are the defendants in this case) to execute the same.

There was some question raised at the hearing as to whether the fact that the deed of May 7, 1912, was executed without the authority of this Commission would render the entire deed void or render void only that portion which purported to convey the grantor's water rights, leaving the conveyance of the land unaffected. In view of the terms of the stipulation, however, it is not necessary for us to decide this point, and the following order is not to be regarded as passing upon this point in any way.

ORDER.

A public hearing having been held in the above entitled case and the matter having been duly submitted and the parties thereto having thereafter filed a written stipulation regarding the settlement of said case,

It is hereby ordered by the Railroad Commission of the State of California that as the alleged conveyance of water rights by the defendant Brookdale Land Company to the defendant County of Santa Cruz on May 7, 1912, which conveyance is recorded in the office of the county recorder of the County of Santa Cruz in Volume 241 of Deeds, p. 272, is null and void in so far, at least, as it attempts to convey all or any part of the waters or water rights mentioned in said conveyance, the defendants Brookdale Land Company and Mountain Light and Water Company are hereby ordered and required to use all of said waters and water rights that may be necessary for the purpose of supplying the inhabitants of the village of Brookdale, Santa Cruz County, and its vicinity with water for municipal, business and household purposes, including the irrigation of gardens; and

It is hereby further ordered that the defendants Brookdale Land Company and Mountain Light and Water Company use as much of the remaining water subject to their control or the control of either of them as may be necessary for the purpose of generating electric energy for supplying said inhabitants of Brookdale and its vicinity with electricity; and

It is hereby further ordered that all of said water that may not be necessary for said municipal, business or household purposes be allowed, after having passed through the generating plant, to flow down to the fish hatchery of the County of Santa Cruz.

Dated at San Francisco, California, this 11th day of March, 1916.

DECISION No. 3150.

D. MILLER

vs.

GREAT WESTERN POWER COMPANY.

Case No. 928.

Decided March 11, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

D. Miller having requested that the complaint in this case be dismissed,

It is hereby ordered that the complaint herein be and the same is hereby dismissed.

Dated at San Francisco, California, this 11th day of March, 1916.

DECISION No. 3151.

IN THE MATTER OF THE APPLICATION OF EAST OAKLAND WATER AND ELECTRIC COMPANY FOR AUTHORITY TO MORTGAGE CERTAIN PUBLIC UTILITY PROPERTY.

Application No. 2081.

Decided March 11, 1916.

Applicant authorized to issue a note in the principal sum of \$3,000.00, bearing interest at 7 per cent per annum, proceeds to be used for additions and betterments to its system, also to execute a mortgage covering its property as security for such note.

REPORT OF THE COMMISSION.

This is an application of East Oakland Water and Electric Company, operating a small water utility in Oakland, Alameda County, for authority to mortgage its property as security for a note or notes in a total sum not exceeding \$3,000.00, and to use the proceeds from said note or notes in the construction of additions and extensions to its plant and system.

On June 14, 1915, in Decision No. 2487, this Commission authorized applicant to acquire certain water utility properties from Andrew Sorensen and to issue 9,000 shares of stock of the par value of \$1.00 per share, 6,000 shares of said stock to be issued to Andrew Sorensen in payment for his properties, five shares to be used for qualification of directors, and the balance or 2,995 shares to be issued for additions and extensions.

It now appears that applicant has been able to sell only \$417.00 par value of stock for the purpose of making the contemplated improvements to its plant. It still desires to purchase a crude oil engine, generator and accessories, estimated to cost about \$2,000.00, and additional pipe for extensions to cost from \$500.00 to \$1,000.00, according to the number of consumers added to the system.

This Commission has already gone into the question of these additions and extensions in Decision No. 2487, mentioned above. Reference is hereby made to said decision for a more complete description of applicant's property and a history of its operations.

A valuation of applicant's property made by this Commission's engineers in Application No. 1691 fixed the reproduction cost of said properties at \$5,891.00. Since that time applicant has expended \$417.00 out of the proceeds from the sale of stock in additions and betterments.

Witness for applicant testified that at the present time East Oakland Water and Electric Company has no indebtedness upon its properties.

After consideration of the evidence submitted by applicant we are of the opinion that this application is proper and should be granted subject, however, to the conditions of the following order:

ORDER.

East Oakland Water and Electric Company having applied to this Commission for authority to mortgage its property as secured for a note or notes in a total principal sum not exceeding \$3,000.00, and to use the proceeds from the sale of said note or notes in construction of additions and extensions to its plant and system as hereinbefore set forth, and a hearing having been held, and it appearing to this Commission that applicant's request is reasonable and should be granted, and that the purposes for which it is proposed to issue said notes are not reasonably chargeable in whole or in part to operating expenses or to income.

It is hereby ordered that East Oakland Water and Electric Company be and it is hereby authorized to issue a note or notes in a total principal sum not exceeding \$3,000.00, for a term not to exceed three years, and bearing interest at not to exceed 7 per cent per annum.

It is hereby further ordered that East Oakland Water and Electric Company be and it is hereby authorized to execute a mortgage upon its properties described in Exhibit "A," attached to Decision No. 2487, dated June 14, 1915, as security for the note or notes herein authorized to be issued,

The authority herein granted is granted upon the following conditions and not otherwise:

1. The note or notes herein authorized shall be issued so as to net applicant not less than the face value thereof.

2. The proceeds from said note or notes shall be used only for the purchase of new pipe and fittings for extensions to the present distributing system and for the purchase of a crude oil engine, generator and accessories.

3. The authority herein granted applicant to issue a note or notes for certain specified additions and betterments is in substitution for and not in addition to the authority to sell stock for the purpose of constructing said additions and betterments granted applicant by this Commission's Decision No. 2487, dated June 14, 1915.

4. Within thirty days after the issue of the note or notes herein authorized to be issued, applicant shall report to this Commission, the face amounts of the notes, the name of the payee, the rate of interest, the terms of the notes and the disposition of the proceeds.

5. Before executing the mortgage or issuing the note or notes herein authorized, applicant shall submit to this Commission a copy of its proposed mortgage and secure a supplemental order from this Commission approving the same.

6. The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act as amended.

7. The authority herein granted shall apply only to such notes as shall have been issued on or before December 31, 1916.

Dated at San Francisco, California, this 11th day of March, 1916.

DECISION No. 3152.

WESTERN WATER COMPANY

vs.

STATE CONSOLIDATED OIL COMPANY.

Case No. 902.

Decided March 11, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainant having made written request that the proceeding entitled as above be dismissed,

It is hereby ordered that this action be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 11th day of March, 1916.

DECISION No. 3153.

CHARLES D. HAMMOND ET AL.

vs.

SANTA BARBARA AND SUBURBAN RAILWAY COMPANY.

Case No. 888.*Decided March 11, 1916.*

Complainants petition the Commission to compel defendant to construct an extension from its present terminus at Haley and Milpas streets in the city of Santa Barbara, to the Santa Barbara Cemetery.

Held. That the estimated cost of the proposed extension would approximate \$78,552.43, with operating expenses and taxes \$19,054.53 per annum, while the estimated revenue would amount to only \$6,160.00, effecting an annual loss to the company of approximately \$12,894.53; that under such conditions the construction of this extension is not warranted, particularly in view of the fact that a local auto bus line proposes putting several busses in operation along the same route. Complaint dismissed.

A. G. Ballaam, for Complainants.

William G. Griffith, for Defendant.

REPORT OF THE COMMISSION.

The complaint alleges that defendant operates a system of street railways in the city of Santa Barbara, and that an extension of its Haley street line should be made from its present terminus at Haley and Milpas streets to Santa Barbara Cemetery, to accommodate the residents of the eastern portion of the city and those having occasion to visit the cemetery; and alleging that the population to be served is sufficient to justify the extension. The answer denies that the population to be served by such an extension is sufficient to justify its construction.

The present Haley street line of the Santa Barbara and Suburban Railway is operated from the intersection of State and Haley streets along Haley street to its intersection with Milpas street, a distance of nine blocks, in connection with its other lines, to and from which transfers are issued. The proposed extension of the Haley street line to the cemetery would serve, beside the cemetery, a distance bounded on the north by Salinas street and the Coast highway; on the east by Pitos street; on the south by Nopal street; and on the west by Montecito street; also the county hospital, located at the corner of Cacique and Salinas streets; and territory about one mile square lying east of the city and beyond the cemetery.

Witnesses for complainants estimated that the total population to be served by the desired extension would be 1,518, made up as follows: 1,100 residents of the easterly portion of the city of Santa Barbara; 168 persons living in the said territory one mile square who would patronize the street car line; 250 mechanics, artisans and laborers residing in other portions of the city and who would use the proposed extension in going to and from their daily work. They estimated the gross annual revenue from the extension at \$5,000.00 to \$6,000.00, based on 1,300 patrons at an average of \$4.50 per annum each. The average they base on gross revenue of defendant for 1914 of over \$66,000.00 from Santa Barbara, with an estimated population of 15,000.

The complainants did not specify any particular route that should be followed by the requested extension to the cemetery. The distance by any of the several routes would be approximately 2.23 miles.

Defendant presented a statement of the estimated cost of construction of the proposed line as follows:

2.23 miles track and overhead construction at \$23,320.70 per mile	\$52,005 16
Special work—2 turnouts at \$1,000.00 each	2,000 00
Clearing and grubbing along Coast highway	500 00
Feeder line	2,445 60
Paving Cacique street crossing—600 square feet at 30 cents per square foot	180 00
Moving present poles along Coast highway	380 00
Bridge over Allisos Creek	500 00
Undergrade crossings at Southern Pacific Railroad and Coast highway	10,000 00
2 cars, complete, at \$4,000.00 each	8,000 00
	<hr/>
10 per cent additional for engineering	\$76,010 76
	<hr/>
10 per cent additional for contingencies	7,601 07
	<hr/>
	\$83,611 83
	<hr/>
10 per cent additional for contingencies	8,361 18
	<hr/>
Total	\$91,973 01

The unit costs have been carefully checked by the Commission and are not found to be unreasonable for the items comprising the cost per mile of track and overhead. The allowance of ten per cent for engineering is not justified for the purpose of this estimate, and a basis of five per cent will be used in this connection. The two cars estimated are not necessary for the operation of the proposed extension and have been

eliminated. The revised figures showing estimate of proposed cost of the extension desired, appear as follows:

2.23 miles track and overhead construction at \$23,320.70 per mile	\$52,005 16
Special work—2 turnouts at \$1,000.00 each	2,000 00
Clearing and grubbing along Coast highway	500 00
Feeder line	2,445 60
Paving Cacique street crossing—600 square feet at 30 cents per square foot	180 00
Moving present poles along Coast highway	380 00
Bridge over Allisos Creek	500 00
Undergrade crossings at Southern Pacific Railroad and Coast highway	10,000 00
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	\$68,010 76
5 per cent additional for engineering	3,400 54
	<hr/>
	\$71,411 30
10 per cent additional for contingencies	7,141 13
	<hr/>
Total	\$78,552 43

The number of houses in the district to be served by the proposed extension, and comprising all those contained in the district north of Nopal street and east of Montecito street total one hundred and four. Assuming five persons to reside in each house there would be a total of 520 persons to be served by the proposed new extension. Adding 168 persons residing east of city limits of the city of Santa Barbara, a total of 688 persons would be served. Allowing an average of \$7.50 per capita per annum (as frequently used by traction experts) as the revenue to be derived from the population served, an annual revenue of \$5,160.00 would be obtained, to which could be added an estimated amount of \$1,000.00 for the annual traffic to and from the county hospital and the cemetery, a total amount of \$6,160.00 could reasonably be expected as the probable revenue, provided all the residents and other occasional patrons used the proposed extension to the exclusion of any other method of transportation.

Assuming the service to be given to be on the basis of a twenty-minute headway, such schedule being at present effective on the Haley street line, the annual car mileage would aggregate 79,767 miles. The operating expense per car mile of the Santa Barbara and Suburban Railway Company for the fiscal year ending June 30, 1915, was 18.404 cents. This figure does not include taxes or interest on funded and floating indebtedness or other overhead expense.

The annual expense of operating the proposed extension would be approximately as follows, based on a service of a twenty-minute head-

way between the hours of 7.00 a.m. and 11.00 p.m., and a cost per car mile as shown to have been incurred during the previous fiscal year:

79,767 car miles at 18.404 cents.....	\$14,680 31
State taxes $5\frac{1}{4}$ per cent on estimated annual revenue of \$6,160.00	323 40
Municipal franchise tax 2 per cent on estimated annual revenue of \$6,160.00	123 20
Interest on investment 5 per cent on \$78,552 43.....	3,927 62
Total operating expense.....	\$19,054 53
Total operating revenue	6,160 00
Estimated annual loss in operation.....	\$12,894 53

The above estimate does not include depreciation or any proportion of overhead expense. Defendant estimates the annual loss at \$19,606.54, allowing for depreciation, and figuring interest at 6 per cent on a larger investment than we have estimated. It reports that it operates the Haley street line at a loss, which loss was $27\frac{1}{2}$ per cent greater in 1915 than in 1914, due largely to jitney bus competition, and that its entire system is operated at a loss.

One of the owners of an automobile bus line operating in Santa Barbara testified that his line had been operating for thirteen months and that they are about to put two 25-passenger busses in service. For three weeks they have been operating an extension to Santa Barbara cemetery along the route of the Haley street line of defendant, and the proposed extension. The line is giving a 15-minute service for a 5-cent fare from the end of the car line to the cemetery, and a 10-cent fare from points west of Haley and Milpas streets. He stated that about four-fifths of the patrons assured the owners that they would patronize the bus line in preference to a new car line. Residents of the east side to the number of 175 have advised the Commission in writing that with the arrival and operation of larger automobile busses they anticipate service as good or better than would be given by the construction and operation of the desired extension.

As there is not a unanimous desire for the proposed extension among the residents of the territory to be served, and as the entire patronage of all such residents would not result in the proposed extension earning the cost of operation, we are of the opinion that the construction of the proposed extension by defendant is not warranted under present conditions.

ORDER.

Complaint having been made that Santa Barbara and Suburban Railway Company has refused to extend its line of street railway on Haley street from the present terminus at the intersection of Haley and Milpas streets to the Santa Barbara cemetery, all within the corporate limits

of the city of Santa Barbara, and a public hearing having been held thereon, and the Commission finding that it would not be reasonable to order defendant to construct and operate said line for the reasons appearing in the foregoing opinion,

It is hereby ordered that the complaint be and the same is hereby dismissed.

Dated at San Francisco, California, this 11th day of March, 1916.

Decision No. 3154, grade crossing; not printed. See end of volume.

DECISION No. 3155.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY TO ABANDON AND REMOVE ITS RAILROAD TRACKS ON WEST SEVENTH STREET, BETWEEN PINE STREET AND RIVERSIDE DRIVE, IN THE CITY OF LONG BEACH.

Application No. 2019.

Decided March 14, 1916.

REPORT OF THE COMMISSION.

Pacific Electric Railway Company having made application for permission to abandon and remove its tracks, poles, wires and other property heretofore used in the operation of its line on Seventh street, between Pine avenue and Riverside drive, in the city of Long Beach, county of Los Angeles, a total distance of 3,635 feet, more or less, and permission having been granted for abandonment of franchise by the legislative board of the city of Long Beach, under its Ordinance No. B66, passed and adopted on November 24, 1915, and filed as Exhibit "B" with this application; the Commission being fully advised in the premises and of the opinion that this is not a proceeding in which a public hearing is necessary.

It is hereby ordered that the application of Pacific Electric Railway Company for permission to abandon and remove its tracks, poles, wires and other property heretofore used in the operation of its line on Seventh street, between Pine avenue and Riverside drive, in the city of Long Beach, county of Los Angeles, be and the same hereby is granted.

Dated at San Francisco, California, this 14th day of March, 1916.

DECISION No. 3156.

IN THE MATTER OF THE APPLICATION OF OCEANSIDE ELECTRIC AND GAS COMPANY FOR ORDER AUTHORIZING THE REFUNDING OF TWELVE THOUSAND AND FORTY-TWO DOLLARS OF PROMISSORY NOTES BY REISSUING SAME FOR ONE YEAR.

Application No. 2078.

Decided March 14, 1916.

Applicant authorized to issue for renewal purposes four promissory notes, aggregating the total sum of \$12,042.00, for a period of two years, with interest at 8 per cent per annum, such notes to be issued at their full face value.

Eugene E. Griffes, for Applicant.

REPORT OF THE COMMISSION.

Oceanside Electric and Gas Company applies to this Commission for an order authorizing the issue of promissory notes hereinafter referred to, for the purpose of refunding a like amount of its promissory notes heretofore authorized and issued under this Commission's Decision No. 2170, of February 24, 1915, upon application No. 1521.

By decision No. 1279, of February 17, 1914, the Commission authorized applicant to create a bonded indebtedness of \$25,000.00, to be evidenced by 6 per cent twenty year bonds, and to sell sufficient of said bonds at not less than 90 per cent of their face value, to net applicant \$14,100.00. Applicant reports that it has not been able to sell bonds at the price authorized; nor at a price which will make its average interest rate less than 8 per cent per annum. It therefore wishes to carry its indebtedness in the form of notes until it can sell bonds to better advantage. It reports that it has no difficulty in securing extensions upon its notes, but that owing to the limited banking facilities at Oceanside, it is obliged to pay 8 per cent interest.

Applicant reports assets and liabilities as of December 31, 1915, with its revenues, expenses and surplus for two years prior thereto as follows:

<i>Assets.</i>	
Fixed capital installed.....	\$34,947 47
Cash and deposits	222 13
Due from consumers.....	1,762 43
Material and supplies.....	416 89
Prepaid taxes	201 58
Prepaid insurance	126 05
Miscellaneous	329 85
Total assets	\$38,006 40

Liabilities.

Capital stock	\$18,190 00
Assessments Nos. 1 and 2	3,638 00
Notes payable	12,042 00
Audited vouchers, wages unpaid	249 55
Miscellaneous accounts payable	236 78
Interest accrued	229 74
Corporate surplus appropriated since December 31, 1912	1,656 43
Corporate surplus unappropriated	1,763 90
Total liabilities	\$38,006 40

Revenues, Expenses and Surplus.

	1914	1915
Operating revenues	\$7,403 55	\$7,103 15
Operating expenses	7,399 08	6,522 29
Net operating revenues	\$4 47	\$580 86
Earnings from bath house	1,498 55	1,929 16
Gross corporate income	\$1,503 02	\$2,510 02
Deductions—		
Interest	\$935 16	\$1,088 55
Bath house expense	479 78	481 94
Total deductions	\$1,414 94	\$1,570 49
Surplus for year	\$88 08	\$939 53
Surplus beginning of year	736 29	824 37
Total surplus end of year	\$824 37	\$1,763 90

From the second 10 per cent assessment of \$1,819.00 collected during 1915, \$400.00 was applied upon notes payable and the balance was used in extensions of the system.

ORDER.

Oceanside Electric and Gas Company having applied to the Railroad Commission for an order authorizing the issue of promissory notes hereinafter referred to, for the purpose of refunding a like amount of its promissory notes heretofore authorized and issued, and a public hearing having been held upon said application, and the Commission finding that the promissory notes which applicant desires to refund were issued for purposes not in whole or in part reasonably chargeable to operating expenses or to income.

It is hereby ordered that Oceanside Electric and Gas Company be and it is hereby authorized to issue its promissory notes payable one day or more after date to the payees hereinafter designated in the amounts specified for a term or terms not exceeding the total period of two years

from the date hereof, all of said notes to bear interest at a rate not exceeding 8 per cent per annum. Said notes are described as follows:

Farmers and Merchants Bank (Long Beach-----	\$10,000 00
W. S. Hargreaves-----	400 00
R. D. Lacoe-----	742 00
R. D. Lacoe-----	900 00
	<hr/>
	\$12,042 00

This order is made upon the following conditions and not otherwise, to wit:

1. Oceanside Electric and Gas Company shall issue said promissory notes at not less than their face value and at an interest rate not in excess of 8 per cent per annum.

2. Oceanside Electric and Gas Company shall issue said promissory notes solely for the purpose of refunding outstanding promissory notes in the same amounts, payable to the same payees.

3. Oceanside Electric and Gas Company shall report to the Railroad Commission, within twenty days after the issue of any of the promissory notes herein authorized to be issued, the fact of the issue and the terms and conditions thereof.

4. This order shall apply only to such promissory notes as may have been issued on or before June 1, 1916.

Applicant may, from time to time, renew the notes herein authorized to be issued, but in no case shall the term or the aggregate terms of any note extend beyond two years from the date hereof.

Dated at San Francisco, California, this 14th day of March, 1916.

DECISION No. 3157.

IN THE MATTER OF THE APPLICATION OF INGLEWOOD WATER COMPANY FOR AN ORDER AUTHORIZING IT TO CHANGE RATES. TO ISSUE BONDS AND PURCHASE WATER SYSTEM OF HYDE PARK WATER COMPANY, AND OF LATTER COMPANY TO SELL SAID SYSTEM.

Application No. 1972.

Decided March 11, 1916.

Inglewood Water Company authorized to purchase and the Hyde Park Water Company to sell its water system for the sum of \$17,500.00, and the former utility to execute a mortgage securing \$300,000.00 face value of bonds and to issue and sell thereunder \$150,000.00 face value, to be issued at not less than par and be used partly in payment for the water plant purchased, to refund notes and for additions and betterments.

The following schedule of rates established, to become effective within twenty days:
 Minimum per month, 75 cents, entitling consumer to 300 cubic feet; over 300 cubic feet and up to 2,000 cubic feet, 13 cents per 100; over 2,000 cubic feet, 8 cents per 100; fire hydrants, \$5.00 per year per outlet.

Willis I. Morrison and K. E. Steinhauer, for Applicant.

Clyde Woodworth, city attorney, for City of Inglewood.

L. Wilhelm, for Hyde Park Improvement Association.

J. H. Brockman, for water users in a portion of Inglewood.

H. M. Launon, for water users in Angeles Mesa Tract and vicinity.

REPORT OF THE COMMISSION.

Inglewood Water Company asks authority of the Railroad Commission to create a bonded indebtedness of \$300,000.00 face value, \$230,000.00 face value thereof to be issued now for refunding indebtedness and purchasing the water system of Hyde Park Water Company and \$70,000.00 face value to provide for future betterments and additions. It also wishes to place in effect a schedule of rates which will increase its revenue from its present business, and with the present growth in its business enable it in the near future to earn the interest on the proposed bonds, but not to give any return to its stockholders.

Inglewood Water Company by its annual report for the year ending December 31, 1915, shows assets and liabilities as follows:

<i>Assets.</i>	
Fixed capital installed prior to January 1, 1913.....	\$277,117 74
Fixed capital installed since December 31, 1912.....	47,601 47
Cash	16 71
Notes receivable	3,000 00
Accounts receivable	16,650 91
Miscellaneous investments	1,200 00
Materials and supplies	2,314 98
Corporate deficit	66,068 68
Total assets	\$413,970 49

<i>Liabilities.</i>	
Capital stock	\$125,000 00
Notes payable	205,827 20
Consumers' deposits	190 00
Miscellaneous accounts payable.....	40,964 86
Reserve for accrued depreciation.....	41,988 43
Total liabilities	\$413,970 49

Above item of miscellaneous accounts payable, \$40,964.86, evidently includes accrued interest unpaid.

By its application said notes and accounts are further shown as follows:

H. R. Boynton Company, open account for merchandise purchased.....	\$4,015 64
First National Bank of Inglewood, note.....	3,000 00
Title Insurance and Trust Company, note secured by mortgage on lots 571, 572 and the east one-half of lot 573, tract 211, Book 15, pages 50 and 51 of Maps.....	3,000 00
Sundry accounts payable, as per "Exhibit I" attached to applica- tion	2,960 00
Taxes due in 1915.....	2,500 00
Interest accrued on note to Charles Lloyd.....	10,381 54
Interest accrued on note to Centinela Land Company.....	24,223 60
Charles Lloyd, note (principal).....	58,764 64
Centinela Land Company, note (principal).....	137,117 48
Total	\$245,962 90
It wishes to now issue bonds to refund indebtedness as follows:	
Principal of Lloyd note.....	\$58,764 64
Principal of Centinela Land Company note.....	137,117 48
On account of remaining indebtedness.....	14,117 88
For refunding above indebtedness.....	\$210,000 00
Purchasing Hyde Park Water System without real estate.....	20,000 00
Additions and betterments in future.....	70,000 00
Total issue (\$230,000.00 to be issued now).....	\$300,000 00

Centinela Land Company and Charles Lloyd respectively offer to waive interest on their notes, and take bonds for the principal of their notes, and that company also offers to donate pipe lines of the alleged value of \$16,499.92, which have been donated in turn to it by various subdividers in procuring water for their nearby tracts. Inglewood Water Company, the stock of which is owned by Mr. Lloyd and the stockholders of Centinela Land Company, would profit under this plan to the extent of \$51,105.06.

In 1903 A. C. Freeman owned large tracts of land adjacent to Inglewood and a small water system supplying about one hundred consumers in Inglewood. He sold to Charles Lloyd, Harry Lee Martin, Willoughby Rodman and James Cook, hereinafter referred to as the "associates," about seventeen hundred acres of his land, together with the water system. In the transaction the associates took title to the land and the system in the name of Inglewood Water Company, a corporation which had been organized by Mr. Freeman with an authorized capital stock of \$250,000.00, but which had not issued any stock or acquired any property up to that time.

In 1904 the associates organized Inglewood Domestic Water Company, a corporation with a capital stock of \$125,000.00, to which was conveyed only the personal property constituting the water system, and later such real estate as it now owns. All of its \$125,000.00 in stock was issued in payment for the system, the stock being passed

to the stockholders of the selling corporation in the form of a stock disbursement. After thus segregating the water business the name of the seller was changed to Inglewood Land Company and the new water company which had purchased the system changed its name to Inglewood Water Company, the present applicant. Subsequently, Mr. Lloyd withdrew from the Inglewood Land Company, receiving in lieu of his interest in the corporation a portion of the company's real estate; and all of its remaining land was acquired by Centinela Land Company, a corporation organized for that purpose by the remaining stockholders in the original land company.

Centinela Land Company in May, 1913, purchased from L. E. Shepard for \$17,500.00 all of the capital stock of Hyde Park Water Company, since which time the water system of the latter company has been operated by Inglewood Water Company in connection with its Inglewood system, the pumping plant of the Hyde Park system being dismantled by Inglewood Water Company. Additions and extensions have been since made at a cost of \$4,261.50. It was testified that the associates are not interested in lands in the Hyde Park district, which lies northeast of Inglewood, but that the stock was purchased in order to secure additional consumers for the Inglewood system, and to effect economies in operations. Lands owned by the company of the stated value of \$2,400.00 are to be retained by it.

Since 1902 the associates have operated the land and water business in conjunction. Since 1904 the water business has been conducted by them through a separate corporation, as above stated. Mr. Lloyd has not been interested with them in land operations since the organization of Centinela Land Company, in which he has never been a stockholder. He has always been a stockholder in Inglewood Water Company, however.

Centinela Land Company still holds about 200 acres of the original 1,700 acres purchased from Mr. Freeman, the remainder having been sold for building lots, and in acre, half-acre and five-acre tracts.

Since its inception, and more particularly during the last few years, the Inglewood Water Company has enjoyed a rapid growth, constantly enlarging and extending its system. It has paid no dividends. It has put into extensions and betterments all of its earnings, as well as the large sums advanced by Centinela Land Company and Charles Lloyd, for that purpose. Applicant showed that the average annual increase in the number of bills rendered for the last six years has been slightly in excess of 16 per cent, while the average annual increase in gross revenues for the same period has been over 19 per cent.

A total of 1,873 consumers were served through the Inglewood and Hyde Park systems as of January 1, 1916. The consumption is for domestic purposes and entirely metered. Of the total number served, 502 were consumers under the Hyde Park water system, of which 250 consumers were on mains leased from the Angeles Mesa Land Company. Of the remaining 1,371 served by the Inglewood Water Company, twenty-five consumers were on mains leased from the Centinela Land Company. The service area of these plants covers approximately three-quarters of the incorporated limits of the city of Inglewood; also a large district adjoining the Inglewood city limits on the south, and about 1.2 square miles in the vicinity of Hyde Park. The real estate and buildings are maintained in excellent condition, the water-bearing land being planted to orchards of deciduous fruits and kept in a good state of cultivation.

Inglewood Water Company's pumping plant is located on lot 27, tract 671. Water is obtained by means of air lifts from four 12-inch wells and one 16-inch well located on lot 23, tract 511, a short distance northeast of the pumping plant. From the wells the water passes to a cement reservoir located at the pumping plant and having a capacity of one and a quarter million gallons. The water is pumped from it into a brick and concrete reservoir with a similar capacity, and located on a hill in block 77, a short distance north of the pumping plant. From this latter reservoir the supply is delivered direct to the distribution mains in Inglewood, the Hyde Park system also receiving its supply from the same source. Mr. Harry Lee Martin, for applicants, estimates the water supply available from the above mentioned wells at 200 miner's inches. The present plant will deliver only about half this amount. The water supply could be increased nearly 100 per cent at a cost of about \$1,500.00, through the installation of additional pumping equipment. The motive power for pumping is steam, with electric current as an auxiliary. The pumping plant and equipment are in good repair and are operated in winter about ten hours per day for three or four days per week and during maximum demand in the summer for about sixteen hours daily. It was also testified that a very considerable increase in the present number of consumers could be taken care of with but a slight increase in operating expenses through more continuous pumping operations.

The distribution system as a rule is so laid out and planned that it could, with proper pumping and storage facilities, accommodate more than double the present number of consumers in the districts now served.

In certain sections of the distribution systems, however, particularly in the Hyde Park district, the service under the present operative conditions is somewhat inadequate. In the case of the Hyde Park territory

an increase in the reservoir height, and an enlargement of certain of the distribution mains, will relieve this situation. Applicants say that improvements will be made in the service there in due course, as funds become available, and point to improvements already made since May, 1913, as evidence of future policy. The rates fixed herein contemplate adequate service and the Commission will expect any inadequacy in service to be remedied at the earliest date practicable.

Mr. James Armstrong, one of the Commission's hydraulic engineers, made a thorough examination of applicant's operating revenues, expenses, water use and consumption. Analysis of the annual reports of both companies for 1915, shows:

<i>Operating Revenue and Expenses.</i>	
Metered rate sales.....	\$30,119 41
Flat rate sales.....	578 71
Sales by Inglewood Water Company to Hyde Park Water Co....	*3,726 79
Service connections	*1,620 00
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Gross operating revenue.....	\$36,044 91
Operating expenses, including \$5,013.36 taxes, but excluding depreciation	27,793 66
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Net operating revenue without depreciation.....	\$8,251 25

The great majority of the consumers on both systems use comparatively small quantities of water. Out of a total of 21,490 monthly bills rendered by both companies for the twelve months ending December 1, 1915, 9,688, or about 45 per cent, were for 500 cubic feet, or less, per month. Some 25 per cent to 30 per cent were for 300 cubic feet, or less, per month. It is also noteworthy that 14,506, or nearly 68 per cent of the total monthly bills rendered, were for 1,000 cubic feet, or less.

As to the real estate of Inglewood Water Company, the only testimony as to its value and proper segregation as to its operative and non-operative character was that of Mr. Martin, who qualified as an expert. No testimony as to value or segregation was offered by City of Inglewood or other interests represented at the hearing. The present value of the real estate was estimated by the witness at \$93,650.00, of which \$86,650.00 was classed by him as operative. Of this latter amount \$2,500.00 represents the parcel on which applicant's barns and corrals are located, which it was testified could be removed at small expense to some other parcel; and \$2,150.00 represents a parcel now used only for mains. This parcel could probably be sold, reserving suitable rights

*Future revenue from service connections has been eliminated by decision in Case No. 683. Combining the systems, the item of \$3,726.79, which now appears in both operating revenue and operating expenses would be eliminated. Operating expenses, after examination, appear reasonable. They will probably be reduced somewhat by combining the systems.

of way for the mains and their maintenance. The nonoperative property could at the proper time be sold and the proceeds made available for further improvements or extensions. As the rates now to be fixed are not designed to afford an adequate return on all of applicant's property, it is not necessary to exclude the nonoperative property from consideration for rate-fixing purposes.

An appraisal of properties comprising the equipment of both systems was made by the engineer for applicants and one by the Commission's engineer. It was stipulated that the inventory prepared by applicant's engineer should be adopted and that the unit cost and overhead of the engineer for the Commission should be used. In pursuance of this stipulation, Mr. Armstrong presented the following report:

	Estimated cost	Cost less accrued depreciation	Sinking fund annuity
Inglewood Water Company.....	\$240,622 00	\$189,154 00	\$4,268 37
Hyde Park Water Company.....	23,196 00	17,412 00	520 49
Operative real estate, Inglewood Water Company, as per testimony.....	86,650 00	86,650 00	-----
Totals	\$350,468 00	\$293,216 00	\$4,788 86
Nonoperative real estate, Inglewood Water Company, as per testimony.....	7,000 00	7,000 00	
Mains to be donated by Centinela Land Company	16,500 00	*16,500 00	
Totals	\$373,968 00	\$316,716 00	

*No data as to accrued depreciation.

Not included in the above is the actual cost of the franchise owned by the Inglewood Water Company, amounting to \$230.00.

The rates at present in effect are:

Inglewood Water Company.

Regular domestic rate:

Minimum bill for any calendar month, allowance, 500 cubic feet..... \$1 00
Ten cents per 100 cubic feet for any additional water used.

To consumers who maintain in reasonably good order, lawn (either grass or clover) covering not less than 900 square feet, 10 cents per 100 cubic feet for all water used.

Special rate No. 1:

Minimum bill for any calendar month..... \$2 00
Ten cents per 100 for first 1,000 cubic feet; 7½ cents per 100 cubic feet for any additional water used.

Special rate No. 2:

Minimum bill for any calendar month..... \$3 00
Seven and one-half cents per 100 cubic feet for all water used.

Fire hydrants, per year..... \$2 50

Hyde Park Water Company.

Minimum bill for any calendar month..... \$1 00
Allowance, 600 cubic feet.

Seven and one-half cents per 100 cubic feet for all water in excess of 600 cubic feet.

Hyde Park Water Company now purchases water from Inglewood Water Company at $7\frac{1}{2}$ cents per 100 cubic feet.

The rate desired for the combined systems is a service charge of 75 cents for each calendar month on all active services, and, in addition, a charge of 8 cents per 100 cubic feet for all water used; fire hydrants, \$5.00 per year per outlet. Applicants desire to keep the rates low to develop the territory, to meet the low rates in force in Los Angeles, and especially to reach the goal of 2,000 users, which they feel is necessary to realize an adequate return at the requested rates. Meanwhile, applicants wish to earn sufficient to make the bonds marketable so funds may be procured for extensions and improvements. The rates fixed herein we think will prove better adapted to the purposes and needs of the utility than the rates requested. They are lower than the rates in effect in most other communities in southern California where the water supply is pumped.

An estimate of the revenue and financial needs of the combined systems for the current year 1916, is given below. It assumes an increase in revenue of 12 per cent, an increase in maintenance and operation expenses other than taxes of 6 per cent, both as estimated by applicants; and that \$230,000.00 of bonds are outstanding. Such estimate based on the rates fixed herein, applied to the water use of 1915, is:

Maintenance and operation, with taxes-----	\$25,210 08
Sinking fund annuity for depreciation-----	4,788 86
Interest at 6 per cent on \$230,000.00-----	13,800 00
	<hr/>
	\$43,798 94
Gross revenue (\$34,913.63 plus 12 per cent)-----	39,108 86
	<hr/>
Deficit -----	\$4,690 08
Reducing bonds \$80,000.00, reduces interest-----	4,800 00
	<hr/>
Deficit -----	\$109 92

The rates fixed herein may temporarily result in some diminution in water use, thus reducing the above estimated gross revenue.

The estimated increase of 12 per cent in revenue and 6 per cent in maintenance and operation expense, is probably conservative. The experience of the past six years, including a period of great business depression and general absence of development operations, indicates this. We think it better policy, however, not to anticipate the future in this case. We therefore authorize the issue of only \$150,000.00 face value of bonds at this time. After a year's experience of careful management of the two systems combined, using the rates fixed herein, a situation may be presented which will justify a further issue of bonds for refunding purposes.

The proposed bonds are to be designated first mortgage gold bonds, 150 of them to be of the denomination of \$1,000.00 each and 300 of them to be of the denomination of \$500.00 each, all to bear interest at the rate of 6 per cent per annum, payable semiannually, evidenced by interest coupons attached, subject to call at 102½ and accrued interest and to be registered if desired. The deed of trust securing the payment of the bonds provides that the company will, five years after their date, and annually thereafter, deposit with the trustee an amount equal to 3 per cent of the par value of the bonds then outstanding, to be used in the purchase and redemption of such bonds as may be called at 102½ or in the purchase of bonds in the open market at not exceeding that price, or invested by the trustee pending the calling or retirement of the bonds; the sinking fund to be managed by the trustee, subject to direction of the company.

For the purchase of Hyde Park water system we have allowed \$17,500.00—substantially the figure shown in the report of the engineers for the Commission and the companies. The indebtedness of Hyde Park Water Company should be applied on the purchase price.

The accounts and notes receivable of Inglewood Water Company total \$19,650.91. The principal amounts are due from its stockholders, from Centinela Land Company and from Hyde Park Water Company. Water bills amount to less than \$1,000.00. These outstanding notes and accounts applied upon the indebtedness of the company would reduce its present needs for refunding debts and purchasing the Hyde Park system to about \$200,000.00.

When market conditions are suitable, in the judgment of the company, the real estate not used or useful in serving the public could be sold and the proceeds used in reducing the indebtedness or in increasing facilities for service.

At the hearing some complaint was made that the present rates are too high to justify use of water for irrigation, and that the company has a rule requiring a continuous run of at least six hours before it will pump for irrigation purposes. It was shown that the land company furnished to purchasers a certificate of Inglewood Water Company agreeing to furnish irrigation water at a rate of \$1.00 per hour for a head of 100 miner's inches or \$1.75 per hour for a head of 200 miner's inches. The certificate made no reference to the six-hour rule. Most of the irrigable area has been developed as residence property rather than ranches and gardens and demand for irrigation water has almost entirely ceased. Some twenty-five persons at the hearing said they would like to purchase irrigation water if they could get it at a reasonable rate. The entire revenue now derived from that source is not sufficient to pay the bare expense of pumping irrigation water. The expense of operating the pump alone without overhead depreciation

or other allowance is about \$1.25 per hour, producing about 177 miner's inches. The irrigation plant could not be operated without a serious financial burden upon the consumers of domestic water. It is so little used that no part of it except the land on which it stands has been included in the appraisal. The land is classified by the Commission's engineer as nonoperative. Under these circumstances, where irrigation use has practically ceased and territory has now been developed for home sites, taking most of the water available, and the community is growing rapidly and will probably continue to make increasingly greater demand upon this utility for domestic water, the possibility of developing demand for irrigation water should be disregarded.

ORDER.

Inglewood Water Company having applied to the Railroad Commission for authority to change its rates charged to the inhabitants of Inglewood and vicinity for water; to create a bonded indebtedness of \$300,000.00, and to issue \$230,000.00 face value of said bonds at this time, using \$210,000.00 face value thereof to refund certain indebtedness; also to purchase a certain water system from Hyde Park Water Company, and issue \$20,000.00 face value of said bonds in payment therefor, in which latter application the latter company joins, and a public hearing having been had thereon and the matter having been submitted, and the Commission being now fully advised, and it appearing to the Commission that the purposes for which said bonds are proposed to be issued are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby found as a fact by the Railroad Commission of the State of California that the said rates, in so far as they differ from the rates herein found to be reasonable, are unreasonable and unjust; and the rates hereinafter set out are hereby found to be just and reasonable rates to be charged for the distribution of water by Inglewood Water Company to its consumers; and basing its order on the foregoing findings of fact and the further findings of fact set out in the opinion preceding this order,

It is hereby ordered that Inglewood Water Company be and it is hereby directed to establish and to file with this Commission within twenty days from the date of this order the following rates to be charged for service of water to the inhabitants of Inglewood and vicinity:

Minimum per month for first 300 cubic feet, or less.....	\$0 75
For excess 300 cubic feet to 2,000 cubic feet, per 100 cubic feet.....	13
For excess over 2,000 cubic feet, per 100 cubic feet.....	08
Fire hydrants, \$5.00 per year per outlet.	

It is further ordered that Inglewood Water Company be and it is hereby authorized to purchase, and Hyde Park Water Company be and

it is hereby authorized to sell, for a consideration of \$17,500.00, all of its property except lots A and B, tract 2095, but including all water works, systems, pipe lines, easements, rights of way, franchises and privileges, as described in form of deed attached to the application as Exhibit "C." Said form, except as to consideration expressed therein, is hereby approved. Said consideration shall be paid by first satisfying any indebtedness due from the Hyde Park Water Company to Inglewood Water Company and the balance of said consideration of \$17,500.00 shall be paid in bonds of Inglewood Water Company herein authorized, issued at par.

It is further ordered that Inglewood Water Company be and it is hereby authorized to execute and deliver mortgage or deed of trust, in a form to be hereafter approved, to secure the payment of \$300,000.00 face value of its 6 per cent first mortgage gold bonds and to issue at par under the terms and conditions hereof \$150,000.00 face value of its said bonds; part of which said bonds may be issued at par in payment for the plant and water system of Hyde Park Water Company, exclusive of its real estate; \$13,000.00 face value of which said bonds, or so much thereof as may be necessary, may be issued to refund indebtedness with interest, to the following persons, to wit:

H. R. Boynton Company-----	\$4,015 64
First National Bank of Inglewood-----	3,000 00
Title Insurance and Trust Company-----	3,000 00
Sundry accounts payable, as per "Exhibit I" attached to appli- cation -----	2,960 00
Total -----	\$12,975 64

and the remainder thereof may be issued at par to refund to that extent indebtedness to Centinela Land Company and Charles Lloyd, ratably, in proportion to the principal of their respective notes, or in such other proportions as the said parties may mutually agree upon.

The authority herein granted as to all of the specific authorizations herein recited, is upon the following conditions, and not otherwise:

1. Said property of Hyde Park Water Company shall be conveyed by good and sufficient written instrument to Inglewood Water Company, free of incumbrance.

2. Inglewood Water Company shall assume and carry out all of the obligations for the service of water now resting upon Hyde Park Water Company.

3. The authority herein granted shall not be considered or treated in any proceeding before this Commission or any other tribunal as a finding by this Commission of value for any purpose other than that of the present application.

4. Said bonds shall not be issued for the purpose of refunding indebtedness to persons, firms or corporations indebted to Inglewood

Water Company in excess of the net amount of indebtedness due from said company after deducting the indebtedness due to said company.

5. Before any bonds are delivered to them hereunder, Centinela Land Company and Charles Lloyd shall respectively waive the interest to January 1, 1916, upon their respective notes for \$137,117.48 and \$58,764.64 executed by Inglewood Water Company; and Centinela Land Company shall, by suitable instrument in writing, convey to Inglewood Water Company free of incumbrance pipe lines referred to in the opinion, of the stated value of \$16,499.92.

6. This order is for the purposes of this proceeding only, and is not intended as an approval of said bonds or the instrument securing their payment, nor of the instrument conveying said property, as to any other legal requirement to which they may severally be subject.

7. The authority herein granted shall apply only to such properties and rights as shall have been transferred hereunder and to such bonds as shall have been issued hereunder on or before August 1, 1916.

8. Applicant shall report to the Railroad Commission within thirty days after the issue of any bonds hereby authorized to be issued the fact of the issue thereof, the terms and conditions thereof and the disposition of the proceeds; and the fact and the date of the transfer of said property of Hyde Park Water Company.

9. The authority herein given to issue bonds shall not become effective until Inglewood Water Company has paid the fee as specified in the Public Utilities Act.

Dated at San Francisco, California, this 14th day of March, 1916.

DECISION No. 3158.

IN THE MATTER OF THE APPLICATION OF MOUNTAIN LIGHT AND WATER COMPANY, BROOKDALE LAND COMPANY, AND COUNTY OF SANTA CRUZ FOR AN ORDER AUTHORIZING MOUNTAIN LIGHT AND WATER COMPANY AND BROOKDALE LAND COMPANY TO CONVEY CERTAIN WATER RIGHTS.

Application No. 2112.

Decided March 11, 1916.

Order approving an agreement entered into between applicants whereby the water company transfers to the county certain land and water rights to be used in connection with its fish hatchery.

J. F. Hughes, for Mountain Light and Water Company.

REPORT OF THE COMMISSION.

This application, as amended, requests an order from this Commission authorizing Mountain Light and Water Company and Brookdale

Land Company to execute two instruments with the County of Santa Cruz, the first of which, designated as Applicants' Exhibit No. 1, will cancel a certain purported conveyance of water rights hereinafter more particularly referred to and the second of which, designated as Applicants' Exhibit No. 2, will convey to the County of Santa Cruz certain land, easements and water rights for the purpose of enabling said county to maintain its fish hatchery on the San Lorenzo River.

This application was filed in pursuance of a stipulation of the parties for the settlement of the case, before this Commission, of James S. Naismith, complainant, versus Brookdale Land Company, Mountain Light and Water Company, and County of Santa Cruz, defendants, said case being designated as No. 904.

Most of the facts relevant to this application are set forth in the opinion in that case, which was decided by this Commission by Decision No. 3149, on March 11, 1916.

We might add that the proposed cancellation agreement complies with the spirit of this Commission's order in Case No. 904, and that the proposed new deed will convey to the County of Santa Cruz all the lands and easements which the original deed from Brookdale Land Company to the County of Santa Cruz (dated May 7, 1912, and recorded in the office of the county recorder of the county of Santa Cruz in Volume 241 of Deeds, page 272, and which was executed without the authorization of this Commission) purported to convey, and all the water rights which can properly be conveyed, to the County of Santa Cruz, with due regard to the rights of the inhabitants of the village of Brookdale and its vicinity.

ORDER.

Mountain Light and Water Company, Brookdale Land Company, and County of Santa Cruz, having applied to this Commission for an order authorizing Mountain Light and Water Company and Brookdale Land Company to execute to and with the County of Santa Cruz two certain instruments, drafts of which, designated as Applicants' Exhibit No. 1 and Applicants' Exhibit No. 2, were filed with this Commission on March 10, 1916, and a public hearing having been held, and it appearing that it is for the best interests of all of the applicants and of the inhabitants of Brookdale and its vicinity in Santa Cruz County that the application should be granted.

It is hereby ordered that Mountain Light and Water Company and Brookdale Land Company be and the same are hereby authorized to execute two certain instruments with applicant, County of Santa Cruz, in the words and figures of the drafts of said instruments, one of which is designated as Applicants' Exhibit No. 1 and one of which is designated as Applicants' Exhibit No. 2, both of which were filed with this Commission at the hearing on March 10, 1916.

The authority herein granted is granted upon the following conditions, and not otherwise.

1. The instruments herein authorized shall not be executed later than May 31, 1916.

2. Within thirty days after the execution of said instruments, applicant shall file copies of the same with this Commission.

Dated at San Francisco, California, this 14th day of March, 1916.

DECISION No. 3159.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AUTHORITY TO CANCEL REFERENCE NOTE CIRCLED 2 IN CONNECTION WITH ITEMS NOS. 970-A, 972-B, 974-B, 975-B OF ITS LOCAL, JOINT AND PROPORTIONAL FREIGHT TARIFF NO. 730, C. R. C. NO. 1632, APPLYING ON PACKING HOUSE PRODUCTS IN REFRIGERATOR CARS FROM SOUTH SAN FRANCISCO TO SANTA CRUZ, SACRAMENTO, FRESNO, SAN FRANCISCO, OAKLAND AND SAN JOSE.

Application No. 1878.

Decided March 11, 1916.

Southern Pacific Company applies for permission to cancel certain items in its freight tariff which would result in an increase of from \$5.00 to \$10.00 per car for refrigeration service on movements from South San Francisco to San Francisco, Oakland, San Jose, Santa Cruz, Sacramento and Fresno, in support of which it contends that a charge is made for refrigeration from other points, and that South San Francisco should not be excepted.

Held, That when the rates herein were established due consideration was given to the conditions under which they were constructed, and if at that time they were deemed just and reasonable, conditions have not altered and the mere fact that a charge is made for refrigeration from certain other points is not sufficient reason to warrant an increase as herein contemplated. Application dismissed.

Geo. D. Squires, for Southern Pacific Company, Applicant.

Sanborn & Rochl, for Western Meat Company, Protestant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

The Southern Pacific Company in this application is seeking authority under section 63 of the Public Utilities Act to cancel note circled 2, published in connection with Items Nos. 970-A, 972-B, 974-B and 975-B, of its Local, Joint and Proportional Freight Tariff No. 730, C. R. C. No. 1632, applying on packing house products in refrigerator cars from South San Francisco to Santa Cruz, Sacramento, Fresno, San Francisco, Oakland and San Jose.

Note circled 2, prior to March 15, 1915, read as follows:

“Will apply on shipments under ice in refrigerator cars, but does not include cost of refrigeration.”

Effective March 15, 1915, same was corrected to read:

“Will apply on shipments under ice in refrigerator cars, but does not include cost of refrigeration, exception to Rule 13.”

Rule 13 reads:

“Rates named in this tariff do not include charge for refrigeration or freight. Refrigeration being a special service separate and distinct from transportation, the charge made for refrigeration is in addition to the transportation rates named herein. See Southern Pacific Company's Local and Joint Refrigeration Tariff No. 810, C.R.C. No. 1874, supplements thereto and reissues thereof, for refrigeration charges on shipments handled via lines of this company.”

The cancellation of Note No. 2 from Tariff 730, C. R. C. No. 1632, would result in a charge of from \$5.00 to \$10.00 per car being imposed for the refrigeration service in conformity with the rates set forth in section 2, page 7, of Local and Joint Refrigeration Tariff 810, C. R. C. No. 1874, as follows:

To—	Present rate per car, minimum 20,000 pounds	Proposed rate per car, minimum 20,000 pounds	Percentage of increase
San Francisco -----	\$5 00	\$10 00	100
Oakland -----	10 00	15 00	50
San Jose -----	10 00	15 00	50
Santa Cruz -----	25 00	35 00	40
Sacramento -----	36 00	41 00	15
Fresno -----	76 00	86 00	14

Applicant contends that it is entitled to this additional revenue to cover the cost of transporting the weight of ice in the bunkers, the cost of repairs to bunkers, and the supervision expense connected with shipments moving under refrigeration. It also desires to place the packing house traffic on a uniform basis and remove discrimination in charges.

The testimony of a witness for applicant developed the fact that carriers until a very recent date reserved the exclusive privilege of performing the refrigeration service, and that prior to March 15, 1915, no optional arrangements were in effect in California, the standard refrigeration rates being assessed against all consignments forwarded in cars with iced bunkers, except those forwarded by the protestant in this case.

Effective March 15, 1915, as per section 2, page 7, of Refrigeration Tariff 810, C. R. C. 1874, a schedule of reduced rates was established

for use of refrigerator cars under ice, whereby shippers were permitted to perform the initial icing.

Applicant's Tariff 16, Y. C. R. C. No. 84, effective January 1, 1906, in item No. 1036, page 52, provides for fresh meats, carloads, from South San Francisco to Sacramento. This item carries the following note:

"Rate applies on shipments in refrigerator cars under ice; does not cover cost of ice."

The commodity rates here involved were subsequently established, and all carry footnotes to the same effect. The evidence tends to show that this situation was brought about by the fact that the Southern Pacific Company has no facilities at South San Francisco for the icing of cars, and it appears that the Western Meat Company, protestant in this proceeding, was given the privilege of performing necessary initial icing of all cars loaded with packing house products moving out of its plant located at that point. This arrangement was apparently in the interest of economy, to avoid the loading of the ice into bunkers at San Francisco, moving the cars under ice to South San Francisco, and maintaining at the point of loading an emergency ice supply to replenish the bunkers prior to their departure under load.

It would, therefore, appear that when the rates under discussion were established, due consideration was given to all of the circumstances and conditions, and that the rates at the time published were deemed to be sufficiently high to include the cost of transporting the ice, bunker damages and supervision expense. The additional charges now proposed are not to cover any new service but constitute an increase in the present transportation charges.

Protestant's witness testified that at all times since the establishment of its industry at South San Francisco, the icing of cars has been performed by its employees, and that the cost of transporting the ice in the bunkers was included in the freight rates, also that had the proposed tariff changes been in effect during the years 1914 and 1915, the increased charges would have amounted to \$6,885.00 for the first year and \$7,655.00 for the second. It is claimed that the method of icing the cars used in this traffic precludes any damage to bunkers, the ice first being put through a crushing machine, conveyed through a spout and with a mixture of salt gradually fed into the bunkers. This method is entirely different from that employed in icing cars for fruits or vegetables, where the ice is dropped into the bunkers in blocks weighing from 100 to 150 pounds each, thereby causing more or less damage to the equipment.

Much discussion was indulged in at the hearing and in the briefs of the attorneys as to the correct interpretation of section 2 of the refrigeration tariff. Note No. 1 to this section reads:

“Any car requiring re-icing in transit will be accepted under above rates, only when shipper ices car to full capacity at point of origin. Any car requiring re-icing in transit, NOT iced to capacity by shipper at point of origin will be subject to charges shown under section 1 of this tariff.”

Attorneys for protestant contended that because of this footnote charges provided in section 2 could not be applied to a consignment initially iced to capacity by shipper which did not require re-icing in transit. The section in its entirety refers to “All carload shipments * * *, when cars are initially iced by shipper,” and the note is simply explanatory. If a car were iced to full capacity by shipper and required re-icing in transit, section 2 would certainly apply; it would also apply if cars were not fully iced by shipper, provided no re-icing was required in transit. Section 1 of the tariff would apply to cars requiring re-icing in transit which had not been iced to capacity by the shipper.

I would suggest applicant reframe this note and thus prevent any possible differences of opinion as to its meaning.

The existing rates from South San Francisco clearly include the refrigeration service when the initial icing is performed by shipper. In other words, at the time these rates were made effective, carrier was fully advised that while it would not have to furnish the ice and put it in the cars, it would have to haul the ice in refrigerator cars as incidental to the movements. This situation has existed since the time the industry was established in South San Francisco. The allegation made by the carrier that the charge made on shipments of fresh meat from South San Francisco constitutes a discrimination as against charges on like commodities from other points, in my judgment, has not been sustained, for the reason that the rates from other points to destinations are presumably reasonable for the service rendered, and that such rates were established with the understanding that the refrigeration service would be additional thereto, whether the icing was performed by the carrier or the shipper.

These cases differentiate from the situation at South San Francisco, in that the carrier has never had and has not now facilities for refrigeration at the latter point, and since the establishment of the industry at that point the industry, having facilities for refrigeration, has performed that service and received a rate from the carriers based upon that fact.

In view of these facts, the applicant has failed, in my judgment, to prove the rate unremunerative and has, therefore, not sustained the burden of proving the propriety of the proposed increase, and the application will therefore be denied without prejudice.

I submit herewith the following form of order:

ORDER.

The Southern Pacific Company having applied under section 63 of the Public Utilities Act for authority to cancel note circled 2, published in connection with items Nos. 970-A, 972-B, 974-B and 975-B, in its Local, Joint and Proportional Freight Tariff No. 730, C. R. C. No. 1632, applying to packing house products in refrigerator cars from South San Francisco to points shown in the opinion which precedes this order, and a public hearing having been held, and the Commission being fully apprised in the premises,

It is hereby ordered that the application be denied, without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 14th day of March, 1916.

Decision No. 3160, grade crossing; not printed. See end of volume.

DECISION No. 3161.

IN THE MATTER OF THE APPLICATION OF J. A. GRAVES AND JACOB BEAN TO HAVE CERTAIN PROPERTY RELIEVED FROM THE CHARACTER OF PUBLIC UTILITY PROPERTY.

Application No. 2084.

Decided March 14, 1916.

Applicants desiring to dispose of certain real property held in connection with their public utility water plant, apply for an order of the Commission declaring that such property is not used or useful in the operation of their public utility business. Application granted.

O'Melveny, Stevens & Millikin, by Sayre Macneil, for Applicants.

REPORT OF THE COMMISSION.

This is an application from the joint owners of a water utility to have certain of their water-bearing lands now impressed with the character of public utility property relieved of that burden. J. A. Graves and Jacob Bean have owned a tract of approximately 18 acres in Tract No. 34 within the city of Pasadena for many years. The land affords protection to the pumping cone surrounding wells owned by applicants.

About 1896, a year of small rainfall, Mr. Graves found that productive wells could be secured by drilling on this 18-acre tract, and several years were spent in developing the supply of some 170 miner's inches of water now available. The location of the tunnels and wells from which the supply is secured, appear on a map of the property filed with the application. To protect the wells against encroachment by other parties prospecting for water, the entire 18 acres have been kept intact and in the names of applicants.

The growth of the city of Pasadena in the direction of this acreage has opened an opportunity for sale of the surface rights of the land, and with restrictions, covering possible drilling of wells on the lots, and with precautionary measures for sanitary protection, there appears no reason why the surface of the land should lie idle. One of this Commission's hydraulic engineers has made an investigation of the property and finds that the reservations hereinafter described appear sufficient to protect the water supply.

The applicants in the proceeding divide the water equally, and thereafter separately serve the public. Mr. Graves furnishes water to the Midwick Country Club and to some one hundred and thirty metered consumers in the city of Alhambra. Mr. Bean uses the major portion of his share of water upon his orange grove of about 100 acres. He also has nine domestic consumers. Applicants' rights to pump have been established by use over a long period of time and it is not probable that any one will encroach upon their pumping territory. Protection against pollution is provided for in the order. The land is said to be free from encumbrance.

ORDER.

J. A. Graves and Jacob Bean, operating a water utility within the city of Pasadena, having applied to this Commission for an order authorizing the release of certain real estate from the character of public utility property, and a public hearing having been held thereon, and the matter now being ready for decision,

It is hereby ordered that the following described lands and easements are hereby found necessary to the operation of the said water utility now operated by J. A. Graves and Jacob Bean, to wit:

1. Lots sixteen (16), fifty-one (51), eighty-two (82) and seventy-two (72) in Tract No. 34, as per map thereof recorded in Map Book 13, pages 190 and 191, Records of Los Angeles County.

2. A portion of lot 1 of said Tract No. 34, more particularly described as follows: Commencing at a point in the northerly line of Allendale road 78.22 feet westerly from the east boundary of said lot one (1); thence northerly parallel to the easterly boundary of said lot one (1) 20 feet; thence south 29° 55' west a distance of 16.36 feet; thence south,

parallel with the easterly line of said lot one (1), 26.43 feet to a point on the north line of Allendale road; thence easterly 21.01 feet along said Allendale road to point of beginning.

3. The right to conduct water through the present cement pipe line or otherwise through the tunnel underneath the surface of lots eighty-one (81), eighty (80), seventy-nine (79), seventy-eight (78), seventy-seven (77), seventy-six (76), sixty (60), sixty-one (61), sixty-two (62), sixty-three (63), sixty-four (64), sixty-five (65), two (2), one (1) and seventy-two (72), all in said Tract No. 34, and under Oakland avenue and Glenarm street, said tunnel and pipe line being located as shown on plat attached to the application.

4. The right to all underground water in or under lots one to fifteen (1-15), both numbers inclusive; fifty-two to sixty-six (52-66), both numbers inclusive; sixty-seven to seventy-one (67-71), both numbers inclusive; seventy-three to eighty-one (73-81), both numbers inclusive, and lot eighty-three (83); all in said Tract No. 34.

It is hereby ordered that the following described lands are hereby found to be not necessary to the operation of the said utility, and are, to the extent described herein, relieved from the burden of their public utility character; but they are subject nevertheless to the said utility's right to the underground water hereinbefore described. All of said lands are located in said Tract No. 34, and are described as follows, to wit:

That portion of lot one (1) not hereinabove found necessary to the operation of said water utility; lots two to fifteen (2-15), both numbers inclusive; lots fifty-two to sixty-six (52-66), both numbers inclusive; lots sixty-seven to seventy-one (67-71), both numbers inclusive; lots seventy-three to eighty-one (73-81), both numbers inclusive; and lot eighty-three (83).

It is hereby further ordered that all conveyances of any of the real property hereinbefore described shall contain a clause reserving to the said utility now operated by J. A. Graves and Jacob Bean and to any utility of which it may at any time form a part, the right to all underground water in said property; and a restriction that all stables, bathing facilities, toilets and sanitary fixtures erected or installed upon any property herein described must be promptly connected with an outfall sewer, conveying all sewage away from all property herein described.

Conveyances of any of the real property hereinbefore described shall be made only after a certified copy of this order shall have been recorded in the office of the recorder of deeds for Los Angeles County.

Dated at San Francisco, California, this 14th day of March, 1916.

DECISION No. 3162.

RIVERS BROS. COMPANY, INC.,
 vs.
 SOUTHERN PACIFIC COMPANY.

Case No. 406.

Decided March 16, 1916.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

This case having been at issue upon complaint, and answer having been filed, and having been duly heard and submitted by the parties, and a full investigation of the matters and things involved having been had, and the Commission having on the 28th day of September, 1915, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof, and wherein it was ordered that if within a period of sixty days from the date of the order River Bros. Company, Inc., and Southern Pacific Company, could not agree upon an amount of reparation due under the order, said parties, or either of them, may appear before the Commission and submit proof, whereupon the Commission will determine the amount of reparation due.

Now, therefore, the sixty days having expired and it appearing that the complainant and defendant were unable to agree as to amount of reparation due, and the complainant having submitted to the Commission proof in the form of original paid freight bills, or copies of same, covering 142 cars of apples shipped from Beaumont and Crafton to Los Angeles subsequent to June 5, 1913, as set forth in the following statement:

Claim No.	To Los Angeles from—	Number cars	Weight	Charges as collected	Charges found reasonable	Amount of reparation
3182	Crafton -----	96	3,631,153	\$4,992 95	\$3,177 26	\$1,815 69
3183	Beaumont -----	21	797,059	802 44	697 44	105 00
3573	Beaumont -----	10	298,470	311 17	261 17	50 00
4054	Beaumont -----	8	247,460	256 52	216 52	40 00
4055	Beaumont -----	1	26,740	28 40	23 40	5 00
4056	Crafton -----	3	80,900	111 24	70 79	40 45
4074	Crafton -----	1	25,000	35 61	22 66	12 95
4075	Beaumont -----	2	57,840	60 61	50 61	10 00
	Totals -----	142	5,165,522	\$6,598 94	\$4,519 85	\$2,079 09

A careful check of the freight bills and amounts having been made, and the defendant, Southern Pacific Company, having conceded that the above statement is correct according to its records,

It is hereby ordered that defendant Southern Pacific Company be and it is hereby authorized and directed to pay unto complainant, Rivers Brothers Company, Inc., on or before twenty days from the date of this order, the sum of two thousand and seventy-nine dollars and nine cents (\$2,079.09), with interest at seven (7) per cent per annum from date of payment of original freight bill, as reparation on account of rates charged for the transportation of 142 cars of apples from Beaumont and Crafton to Los Angeles moved subsequent to June 5, 1913, which rates so charged have been found to have been unreasonable.

Dated at San Francisco, California, this 16th day of March, 1916.

DECISION No. 3163.

IN THE MATTER OF THE APPLICATION OF VENICE OF AMERICA
WATER COMPANY TO ACQUIRE FROM THE ABBOT KINNEY COM-
PANY PROPERTIES PERTAINING TO WATER SERVICE IN THE
CITY OF VENICE.

Application No. 1921.

Decided March 16, 1916.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas by Decision No. 3067, dated January 26, 1916, this Commission authorized Abbot Kinney Company to sell and convey to Venice of America Water Company the property described in Exhibit "A" attached to said Decision No. 3067, said property including the right to use perpetually the present concrete tunnel in part of business district of Venice, which tunnel is 5 by 6 feet, and about 1,000 feet long; and

Whereas Abbot Kinney Company now asks this Commission to amend said Decision No. 3067 so as to permit it to sell to Venice of America Water Company its public utility water system described in an agreement dated February 3, 1916, attached to the application herein and marked "Exhibit A Amended," said "Exhibit A Amended" containing a provision whereby Abbot Kinney Company agrees to lease to Venice of America Water Company the use of a portion of the aforesaid concrete tunnel for a term of five years at a rental of \$100.00 per annum; and

Whereas said agreement dated February 3, 1916, marked "Exhibit A Amended," also contains a stipulation whereby Venice of America Water Company agrees to undertake and perform all obligations relating to water service now or heretofore properly binding on Abbot Kinney Company, and good cause appearing,

It is hereby ordered that Abbot Kinney Company be and it is hereby granted authority to sell and convey to Venice of America Water Company the property described in "Exhibit A Amended," hereto attached and made a part hereof, in lieu of the property described in "Exhibit A," attached to said Decision No. 3067, dated January 26, 1916.

It is hereby further ordered that the authority herein granted is upon the express condition that Abbot Kinney Company lease to Venice of America Water Company for a period of five years at an annual rental of not more than \$100.00, the right to use the aforesaid concrete tunnel in part of the business district of Venice, for the purposes set forth in "Exhibit A Amended," and attached hereto.

It is hereby further ordered that the Railroad Commission of the State of California hereby finds as a fact that Venice of America Water Company has filed with the Commission a stipulation satisfactory in form whereby it agrees to undertake all obligations relating to water service now properly binding upon Abbot Kinney Company.

It is hereby further ordered that the order found in Decision No. 3067, dated January 26, 1916, shall remain in full force and effect except as modified by this first supplemental order.

Dated at San Francisco, California, this 16th day of March, 1916.

"EXHIBIT A AMENDED."

This agreement, made and entered into this 3d day of February, 1916, by and between Abbot Kinney Company, a corporation, party of the first part, and Venice of America Water Company, a corporation, party of the second part,

Witnesseth: Whereas the parties of the first and second part hereto have heretofore applied to the Railroad Commission of the State of California for permission for the said party of the second part to acquire from the party of the first part properties pertaining to water service in the city of Venice, in the county of Los Angeles, State of California, which application is No. 1921 before said Railroad Commission; and

Whereas by its Decision No. 3067, rendered January 26, 1916, the said Railroad Commission of the State of California has, upon certain conditions therein expressed, granted authority to the parties hereto to make said transfer and to issue stock of the said party of the second part thereupon; and

Whereas the said parties hereto are desirous of complying with the said decision and order of the said Railroad Commission of the State of California; now, therefore, this indenture witnesseth:

I.

That the said party of the first part, in consideration of the issuance and delivery to it by the party of the second part of three hundred and fifty (350) shares of the capital stock of the said party of the second part, of the par value of thirty-five thousand (\$35,000) dollars, fully paid up, the receipt whereof by said party of the first part is hereby acknowledged, has granted, bargained and sold and by these premises does grant, bargain and sell unto the party of the second part, its successors and assigns, all that certain real estate described as follows:

Lot 15 in block 2 of Venice Annex No. 2, as per map recorded in Map Book 8, at page 46, in the records of Los Angeles County, State of California, same containing 3,380 square feet, and having a frontage on Millwood avenue of 61.46 feet; including all buildings and improvements thereon, or that may be erected thereon; together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; also the following described buildings, reservoir, sand traps, wells, equipment of pump house, water mains, service lines, valves, concrete manholes, materials, rights of way, leasehold rights in reinforced tunnel, accounts receivable and personal property, more particularly described as follows, to wit:

Pump House.

One-story frame; concrete floor; plastered inside. Floor space 1,122 square feet.

Concrete Reservoir and Sand Traps.

One concrete reservoir, size 33' x 36'.

Five concrete sand traps, size 6' x 9'.

Capacity of reservoir 100,000 gallons.

Reservoir covered by frame building.

Wells in Service.

Two 15" diameter steel lined wells 190 feet deep inside of pump house building, and the right to use said wells and the water in them.

Capacity of wells, 70 inches each.

Equipment of Pump House.

One two-stage, 6" Horizontal B. J. direct-connected pump. Reservoir to mains.

One single-stage, 4" Horizontal B. J. direct-connected pump. Reservoir to mains.

One single-stage, 3" Horizontal B. J. direct-connected pump. Reservoir clean out.

One single-stage, 6" Krough direct-connected pump. Wells to sand traps and reservoir.

One single-stage, 4" B. J. Horizontal pump. Wells to sand traps and to reservoir.

One 5 h.p. Westinghouse motor, 220 volts, 1,700 R. P. M.

One 35 h.p. Westinghouse motor, 220 volts, 1,420 R. P. M.

One 50 h.p. Westinghouse motor, 220 volts, 930 R. P. M.

Two 20 h.p. Westinghouse motors, 220 volts, 1,420 R. P. M.

All with starters.

One 12" x 12" air compressor, belt driven.
 One 36" x 96" air receiver with safety valve.
 50 linear feet 12" extra heavy belting.
 30 linear feet 4" rubber water hose.
 50 linear feet 2½" fire hose with nozzle.
 6 gauges, water and vacuum.
 1 air receiver on main line (water).

Water Mains, Service Lines, Valves and Concrete Manholes.

2,300 linear feet 6" wrought iron pipe.	8 6" gate valves.
1,000 linear feet 6" cast iron pipe.	6 5" gate valves.
9,800 linear feet 5" cast iron pipe.	10 4" gate valves.
4,800 linear feet 4" cast iron pipe.	50 2" gate valves.
19,000 linear feet 2" galvanized iron pipe.	135 ¾" hose bibs—canal service.
6,000 linear feet ¾" galvanized iron pipe.	12 concrete manholes, iron cover plates.

Materials in Stock.

Meters, pipe, fittings and valves.	2½" black pipe, 2 lengths.
¼" galvanized pipe, 3 lengths.	2½" galvanized pipe, 8 lengths.
¾" black pipe, 5 lengths.	3" galvanized pipe, 11 lengths.
¾" galvanized pipe, 9 lengths.	4" C. I. pipe, 2 lengths.
¼" black pipe, 12 lengths.	6" C. I. pipe, 3 lengths.
½" galvanized pipe, 22 lengths.	½" water meters, 4.
¾" black pipe, 4 lengths.	1" water meters, 4.
¾" galvanized pipe, 13 lengths.	¾" water meters, 8.
1" black pipe, 8 lengths.	Meters installed—
1" galvanized pipe, 12 lengths.	2 4" trident crest (Neptune).
1½" black pipe, 15 lengths.	11 2" disk meters (Neptune).
1½" galvanized pipe, 6 lengths.	10 1½" disk meters (Neptune).
1½" black pipe, 27 lengths.	9 1" disk meters (Neptune).
1½" galvanized pipe, 8 lengths.	16 ¾" disk meters (Neptune).
2" black pipe, 14 lengths.	131 ¾" disk meters (Neptune).
2" galvanized pipe, 3 lengths.	1 6" Tribune type, Worthington.

Rights of Way.

Right to lay water mains in all streets in Venice of America Tract by reservation in all deeds to city of Venice; also same applies to all lots sold in said tract, right being reserved by deeds, to lay pipes and serve water to all lots.

Accounts Receivable on Account of Water Service.

Total accounts receivable, October 25, 1915, \$779.60.

Also any and all other property used and useful in the service of water in the city of Venice, including reservoirs, tools, materials, machinery, maps, books, records and papers.

Right in Reinforced Tunnel.

A leasehold right as hereinbelow expressed in the present concrete tunnel in part of the business district of Venice.

And, in order to express more particularly the last preceding item, the said party of the first part does hereby let and lease unto the said party of the second part, its successors and assigns, for the term of five (5) years, from and after the date hereof, the right to use the present concrete tunnel in part of the business district of Venice, the dimensions of which are 5 by 6 feet and about 1,000 feet in length, for the entire length thereof, for the purpose of installing and maintaining therein pipes to convey water to be served to the inhabitants of the city of Venice and vicinity, and the right thereby to occupy so much of said tunnel as is at present occupied therein by such pipe, for the annual rental of \$100.00, payable by the party

of the second part, its successors and assigns, in advance each year during the running of the leasehold herein referred to; together with all reasonable right of entry in said tunnel and access to said pipe, for the purpose of installing and maintaining and keeping the same in repair during the term of said leasehold.

And it is further covenanted and agreed between the parties hereto that the said party of the second part has received each and every of the properties, real and personal, in this agreement above mentioned; that the said properties and rights, and each and every thereof, are transferred by the party of the first part to said party of the second part free and clear of all encumbrances whatsoever; that said party of the second part does hereby stipulate and agree that it will undertake and perform all obligations relating to water service now or heretofore properly binding upon said party of the first part.

In witness whereof, the respective parties of the first and second parts hereto have hereunto signed their corporate names and affixed their corporate seals by their respective officers, thereunto duly authorized, the day and year first hereinabove written.

ABBOT KINNEY COMPANY,

By (Signed) ABBOT KINNEY, its president.

(Signed) THORNTON KINNEY, Secretary.

VENICE OF AMERICA WATER COMPANY,

By (Signed) SHERWOOD KINNEY, its president.

(Signed) THORNTON KINNEY, Secretary.

STATE OF CALIFORNIA, }
County of Los Angeles, } ss.

On this 3d day of February, in the year nineteen hundred and sixteen A. D., before me, Frank W. Kurten, a notary public in and for the said county of Los Angeles, State of California, residing therein, duly commissioned and sworn, personally appeared Abbot Kinney, known to me to be the president, and Thornton Kinney, known to me to be the secretary of Abbot Kinney Company, the corporation which executed the within and annexed instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal in said county the day and year in this certificate first above written.

(Signed) FRANK W. KURTEN,

Notary Public in and for Los Angeles County,
State of California.

(My commission expires July 16, 1918.)

STATE OF CALIFORNIA, }
County of Los Angeles, } ss.

On this 3d day of February, in the year nineteen hundred and sixteen A. D., before me, Frank W. Kurten, a notary public in and for the said county of Los Angeles, State of California, residing therein, duly commissioned and sworn, personally appeared Sherwood Kinney, known to me to be the president, and Thornton Kinney, known to me to be the secretary of Venice of America Company, the corporation which executed the within and annexed instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal in said county the day and year in this certificate first above written.

(Signed) FRANK W. KURTEN,

Notary Public in and for Los Angeles County,
State of California.

(My commission expires July 16, 1918.)

DECISION No. 3164.

IN THE MATTER OF THE APPLICATION OF VALLEY NATURAL GAS COMPANY FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY APPLICANT OF THE RIGHT AND PRIVILEGE TO SELL GAS FOR LIGHT, HEAT AND POWER AND ALL OTHER LAWFUL PURPOSES UNDER THAT CERTAIN FRANCHISE GRANTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF KERN, STATE OF CALIFORNIA.

Application No. 2018.

Decided March 16, 1916.

REPORT OF THE COMMISSION.**FIRST SUPPLEMENTAL ORDER.**

Whereas this Commission in an order, dated February 16, 1916, Decision No. 3104, declared that public convenience and necessity required the exercise by Valley Natural Gas Company of the rights and privileges conferred by Ordinance No. 115, of the county of Kern, adopted December 11, 1915, provided that Valley Natural Gas Company should first have filed with the Railroad Commission a stipulation duly authorized by its board of directors declaring that Valley Natural Gas Company, its successors and assigns, would never claim before the Railroad Commission, or any court or other public body, a value for said rights and privileges in excess of the actual cost to Valley Natural Gas Company of acquiring said rights and privileges, and should have received from the Railroad Commission a supplemental order approving the same; and,

Whereas Valley Natural Gas Company has now filed with this Commission a stipulation as set forth above, and it appearing to this Commission that said stipulation is in form satisfactory to this Commission so far as may be necessary for the purposes of this proceeding;

The Railroad Commission hereby finds as a fact that Valley Natural Gas Company has complied with the conditions of the order in Decision No. 3104, dated February 16, 1916.

Dated at San Francisco, California, this 16th day of March, 1916.

DECISION No. 3165.

IN THE MATTER OF THE APPLICATION OF NORTH FORK DITCH COMPANY FOR APPRAISEMENT OF ITS PROPERTY AND ADJUSTMENT OF WATER RATES.

Application No. 1524.

Decided March 17, 1916.

Applicant petitions the Commission to appraise its properties and establish a schedule of rates. It is operating at present under a number of contracts, one of which

provides that applicant shall deliver sixteen inches of water to certain property free of charge in return for the services of its secretary. Another contract provides for the perpetual delivery of water at about half the regular rates, in payment for a reservoir site.

Held, That while the Commission may, under certain circumstances, give consideration to contracts of such a nature, those here under consideration are clearly detrimental to the balance of applicant's consumers, and, as the courts have previously determined, a water company can not appropriate water for a public use and subsequently divert such water for a private purpose, contracts held void and the water delivered thereunder treated the same as other water delivered by applicant and uniform rates fixed therefor.

The ditch system applicant operates was originally constructed for mining purposes. That project was a failure and the ditches were subsequently taken over for irrigation purposes.

Held, That the present consumers can not be expected to pay rates providing a return upon the full value of such system, which, though originally constructed for other than irrigation purposes, has now been found adaptable to such use. That a return upon the full amount paid for such properties when taken over for irrigation purposes is fair to applicant and consumers.

The following schedule of rates established to become effective April 1, 1916: \$30.00 per miner's inch per year to consumers on the main ditch and laterals, \$20.00 per inch per year delivered at the Penstock Reservoir, when collection is made from individual consumers, and \$16.00 when collection is made from one consumer, \$200.00 per month delivered for mining purposes at Mississippi Bar Reservoir, \$1.00 per month for domestic use. Applicant directed to file its rules and regulations for approval within fifteen days.

Frank F. Atkinson, of *Elliott & Atkinson*, for receivers of American Irrigation Company.

Lester Hinsdale, for North Fork Ditch Company.

Chauncey H. Dunn, for Citrus Heights Colony.

J. M. Inman, for Fair Oaks Water Takers Association.

Sheridan Downey, of *Downey, Pullen & Downey*, for Fair Oaks Water Takers Association.

A. E. Clark, for water users of Rosedale School District.

O. G. Hopkins, for Orangevale Water Company and American Irrigation Company.

A. F. Lacey, for water users of Cardwell Colony.

Robert T. Devlin, for estates of A. N. Buchanan, Charles S. Gibbons, and Samuel Jones.

George A. Van Smith, in *propria persona*.

S. Glen Andrus, in *propria persona*.

R. L. Shinn, for Carmichael Colony System.

M. L. Sears, in *propria persona*.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

Applicant asks that the Commission fix rates for its domestic and irrigation water service. The applicant's plant consists of a diversion

dam on the North Fork of American River, a main ditch which is 25 $\frac{3}{4}$ miles long, laterals and appurtenant structures. The dam is in Placer County, about 2 miles from Auburn. The main ditch extends from the dam into Sacramento County and ends at the Penstock Reservoir, about 3 miles from Folsom, being on the other side of the American River from that place. The four lateral ditches aggregate a total of 9.65 miles in length, with two distribution pipe lines aggregating 4.25 miles in length. The other principal structures consist of a main reservoir covering 20 acres, the Penstock Reservoir covering one acre, the Mississippi Bar Reservoir covering 21 acres and mud settler covering 4 acres. The company has a right to divert from the North Fork of the American River 3,000 inches of water, measured under a 4-inch pressure, equal to 60 cubic feet per second. The company also claims other unadjudicated rights to water. Three hundred and seventy-five acres of land are irrigated along the main ditch, using the 16 inches of water delivered to the Buchanan Ranch.

From the lateral ditches the following acreage is irrigated: Rose Spring Ditch, 423 acres; Ashland Ditch, 67 acres—a total of 490 acres on the lateral ditches.

On the pipe lines the following acreage is irrigated: Cardwell and San Juanita Colony, 156 acres; Orangevale Colony, 589 acres; colonies on the Fair Oaks Pipe System, 3,350 acres—a total of 4,095 acres on the pipe line, and 4,585 acres on the lateral ditches and pipe lines combined. This gives a grand total of 4,960 acres.

The Fair Oaks Water Takers Association appeared in the proceeding by counsel, and introduced evidence and filed briefs. This association protests against any increase in applicant's rates and urges that applicant is indirectly responsible for the sale of lands under its system at a price which embraced an amount sufficient to install a water system such as that of applicant, and that inasmuch as applicant's plant was used by manipulators in the sale of such land applicant should not be allowed to charge rates so as to produce any excess of an amount equal to depreciation and operating expenses, and that no interest or return on property should be allowed.

I have considered the evidence carefully and read all of the briefs filed, and find that there is no justification for holding that applicant is now or ever has been interested in lands irrigated by it, or that applicant ever took part in the sale of any such lands.

I find nothing in the evidence, nor am I persuaded by the briefs of counsel, to import into the determination of this matter any unusual considerations.

One matter, however, requires attention. The estates of A. N. Buchanan, Charles S. Gibbons, and Samuel Jones now claim the right to receive 16 miner's inches of water from applicant free of cost. On

the 8th of February, 1903, North Fork Ditch Company, through its board of directors, adopted a resolution, as follows:

“Resolved, That for and in consideration of services heretofore rendered by A. N. Buchanan for this company, as its secretary, a perpetual right to sixteen inches of water be granted to him and his assigns for the exclusive purposes of irrigating the land herein-after in this resolution described, and for use thereon for domestic purposes, such water to be diverted from the ditch of this company and conveyed to said land and used thereon for such purposes at his own cost and expense; and the president of this company is hereby vested with full authority to carry into effect this resolution. The land in this resolution referred to is situate in the county of Sacramento and State of California, and is about 100 acres of land bought by the said A. N. Buchanan from Joseph and Wm. M. Sims, particularly described as follows.”

It appears from the evidence that subsequent to the adoption of this resolution Buchanan and his successors and associates diverted from the ditch of applicant the full 16 inches of water, and have ever since diverted and used said water without payment therefor to applicant.

Mr. Isaac A. Hinkle, a witness called on behalf of the estates of Buchanan, Gibbons, and Jones, testified that he had worked for the North Fork Ditch Company since 1882, and that he looked after what is known as the Ashland section of the ditch.

Mr. Hinkle testified that just prior to the diversion of the 16 inches of water the full amount of water running in the ditch was used either for the use of individuals or for mining, for which use applicant was paid compensation. His testimony on that subject is as follows:

“Q. What was becoming of that water before the Buchanan water was taken out?

A. It went into a reservoir and was distributed from there.

Q. What reservoir was that?

A. It is what we call Reservoir No. 1, storage reservoir.

Q. Who was supplied from that reservoir with water?

A. That went back into the old original ditch and come on down and supplied the people below Fair Oaks, Orangevale, and any one that bought water out of the ditch below that point.

“Q. Those people, I assume it will be agreed, were paying rates, is that true?

A. Yes, they were all paying rates.

Q. Were they using all of the water?

A. Well, I couldn't say whether they were using it all at that time; I think though practically all of it. What was not used for irrigation purposes was used for mining. There was some mining going on at that time.

Q. I am speaking now about the time the Buchanan ditch was put in there.

A. Yes.

Q. Well, was there any waste water at that time?

A. Well, as I say, we were running it—whatever waste water there was, we carried it down into what we called the Mississippi Bar.

MR. DEVLIN. And used it for dredge mining?

COMMISSIONER EDGERTON. Would you say all the water was being used for the purpose which you have named?

A. Yes, it was practically all of it.

Q. What then became of the consumers when the Buchanan water was taken out?

A. Well, I don't know as it made any particular difference, because he never got only the 16 inches. I never could see any great difference. Of course, there was that much taken out of the mining part.

Q. You think it came out of that which you were supplying the mine?

A. Yes, we ran considerable water down to the dredge. Since that time we run them with winter water.

Q. These dredges being what we now know as gold dredges?

A. Yes, sir."

It appears that applicant and its predecessors appropriated water from the North Fork of the American River for sale, rental and distribution for agriculture, mining and mechanical purposes at all seasons of each year. It appears, further, that at the time of the attempted conveyance of water to Buchanan by applicant in 1903, applicant was a public utility water company distributing water for compensation.

Taken together, these facts bring this 16 inches of water squarely within the rule laid down in the case of *Leavitt vs. Lassen Irrigation Company*, 157 Cal. 82. It was there said:

"Treating Leavitt's appropriation as being wholly and entirely for public use, he, the owner of the system, was but an instrumentality for the distribution of the waters which he gathered to such members of the public as might apply for them and pay to him the required charge for the service that he rendered. As the agent of such a public use, he had no power whatsoever to reserve to himself for his private purposes any part of this water. If he could reserve a part, he could reserve all, and thus, by his *ipse dixit*, convert a public use into a private ownership, or, if he could reserve a part for himself, he could with equal authority give away parts of the supply to others, and by this method destroy what the Constitution itself has declared shall forever remain a public use."

It follows, therefore, that this 16 inches of water should be treated the same as all other water supplied by applicant, and should be paid for at the same rates as are fixed for other consumers receiving a like service.

It appears, also, from the evidence, that Isaac Hinkle, present superintendent of applicant's system, is receiving water at a rate lower than the ordinary consumers. He was given the privilege of taking 25 inches

of water at the rate of 10 cents per miner's inch day. Using 180 days per year as the irrigation period, this would amount to \$18.00 per miner's inch per year, which would net the company \$450.00 per year. If paid for at the regular rate of \$37.50 per miner's inch, it would amount to \$937.50 per year. This results in a loss to the company of \$487.50 per year.

It is alleged that this lower rate for water is given Mr. Hinkle because he conveyed to applicant 15.4 acres of land for a reservoir site.

It is evident that if a public utility water company is permitted to accept property or money under an agreement fixing the rate for water, and that the consumer thus favored may forever urge this agreement as binding against the power of the State to fix rates, that the State would be impotent to exercise its regulatory power. While I do not believe that any sweeping declaration should be made by this Commission that it will in no case recognize or consider agreements heretofore made for the service of water, still, in this present instance, I see no reason for permitting water to be served at less than the regular rates to Mr. Hinkle. He occupies no different position than that of consumers under systems where different prices have been paid for so-called water rights. Obviously, if the Commission gave full consideration to these different prices paid for water rights, then different rates would have to be established upon a basis of these payments, and a chaotic condition would result.

The operating revenue of applicant, as shown by its books, from April 1, 1914, to March 31, 1915, was \$23,412.47, and the operating expense for the same period was \$12,577.77, which includes maintenance, operation, taxes, and insurance. This gives a net operating revenue of \$10,834.70. However, the net operating revenue has been less than this, on account of the fact that some of the consumers, notably the American Irrigation Company, have not paid their bills in full, but it is probable that this condition will be improved by the adoption of suitable rules and regulations.

Applicant delivers water directly to consumers along its main ditch and laterals, the stated rate therefor being \$37.50 per miner's inch, under a 6-inch pressure. It delivers water wholesale at the Penstock Reservoir to American Irrigation Company at the stated rate of \$18.00 per miner's inch, under a 4-inch pressure. This latter company in turn conveys the water through its system and delivers it to its consumers in Fair Oaks at the rate of \$3.00 per acre per annum for irrigation use and \$12.00 per year per consumer for domestic use.

In Carmichael Colonies Nos. 1 and 2, and Citrus Heights and additions, American Irrigation Company charges its consumers for irrigation \$4.00 per acre per year and \$12.00 per consumer per year for domestic use.

Applicant delivers water in bulk at the Penstock Reservoir into the pipes of Orangevale Colony, but collects from each consumer in said colony at the following rates:

\$4.00 per acre per year for citrus trees, berries, vegetables and nurseries.

3.00 per acre per year for alfalfa and deciduous trees and grapevines two years old.

2.00 per acre per year for deciduous trees and grapevines under two years.

12.00 per year for domestic use.

Mr. Nickerson, engineer for applicant, estimates that the above rates for Orangevale Colony result in a charge of about \$10.00 per inch per year under a 6-inch pressure.

Applicant delivers water into the pipes of Cardwell and San Juanita colonies at the Penstock Reservoir and collects from each colonist the following rate:

\$20.00 per miner's inch per year, under a 6-inch pressure.

Water is delivered by applicant at the Mississippi Bar Reservoir to a mining company, at the rate of \$200.00 per month. No measurement is made of this water and the mining company takes such as is available.

All of the rates above mentioned are set out in contracts made between American Irrigation Company and between the latter company and its consumers in Fair Oaks and Carmichael colonies, and in contracts between applicant and the colonists in the other colonies mentioned.

However, under the interpretation of the law long since made and frequently declared by this Commission, I shall recommend rates upon the theory that these contracts are not binding as against the power of the Commission to regulate.

The rates asked for by applicant are:

For water delivered directly to consumers along its main ditch and laterals to remain at the present rate of \$37.50 per miner's inch, under a 6-inch pressure.

For all water delivered to American Irrigation Company, Orangevale Colony, Cardwell and San Juanita colonies, \$21.00 per miner's inch per year, under a 4-inch pressure.

The mining company's rates to remain as at present.

To grant applicant's request would result in increasing the rates to American Irrigation Company by \$3.00 per inch per year, and more than doubling the rates to Orangevale Colony, and to increase the rates to Cardwell and San Juanita colonies by about \$5.00 per inch per year.

It is obvious that the present rates result in serious discrimination between consumers of applicant as widely differing charges are made for the same class of service. Therefore, I shall recommend a rate which shall be uniform for identical service.

The several valuations of the property presented at the hearing were as follows:

	Reproduction cost	Reproduction cost less depreciation
Commission's engineers -----	\$108,494 00	\$371,865 00
Nickerson, for applicant -----	426,675 00	381,497 00
Elliott, for Fair Oaks Water Takers' Association----	347,715 00	295,601 00

Eight thousand five hundred dollars of the difference between reproduction cost by the Commission's engineers and Nickerson are that the latter used a cost for better pipe than was actually laid, \$20,000.00 additional difference is due to a lower unit price on the main dam used by the Commission's engineers. This point was gone into thoroughly at the hearing and nothing was developed that should change the figures of the Commission's engineers. Eight thousand dollars of additions and betterments were included by the Commission's engineers and not by Nickerson. The difference between Elliott and the Commission's engineers is due primarily to the amount of \$50,000.00 resulting from the use by Elliott of extremely low unit prices on ditch excavation. Disagreement on unit prices on the pipe lines and main dam explain the balance. No details were exhibited as to how such unit prices were obtained.

The greater part of the North Fork Ditch Company was built about 1854 for the purpose of hydraulic mining principally, although some of the water in those early days was used for irrigation.

The ditch was used for a great many years to its full capacity, but with the decline of hydraulic mining it gradually went into disuse until the year 1877 when C. W. Clark, H. Williams, and H. C. Smith acquired it. Conflicting evidence was introduced to show the price paid for this ditch which placed the figure ranging from \$20,000.00 to \$50,000.00.

In 1899 the property included the former dam on the North Fork of the American River, together with canals, ditches, and other improvements. The North Fork Ditch Company was incorporated in 1899 and immediately became the owner of this property, there being issued \$200,000.00 par value of common stock.

Immediately after incorporation of the company, the present main dam was built on the North Fork of the American River.

Assuming the sale price of this property to be \$50,000.00, the investment up to date is as follows:

Original investment	\$50,000 00
Dam and appurtenant structures.....	112,381 00
Tunnel No. 3.....	680 00
Pipe lines and syphons.....	60,195 00
Miscellaneous	2,344 00
Total	\$225,000 00

Considering that the ditch system was originally built largely for mining purposes and that the mining use has largely failed, it seems fair to assume that the original investors did not make any sacrifice for present irrigation consumers. They invested their money with a view to the mining industry, and it can not fairly be held that their successors should be allowed a return upon an investment made originally for a purpose which has failed and disappeared, simply because it became possible to use the property thus acquired and constructed for a new and different purpose. It is apparent from the evidence in this case that if an investment were now being made for consumers, or if the investment had originally been made for irrigation purposes, the result in total of money expended and design of property might be very different. I believe, therefore, that it is entirely fair to applicant to allow as investment the highest price any one has suggested was paid for this ditch property by the present company, to wit, \$50,000.00, and to add thereto all expenditures for betterments and additions made since.

Allowing 6 per cent return on this investment and adopting the estimates of operating expenses and depreciation of the Commission's engineers, we arrive at the annual gross income which would be reasonable:

Six per cent interest on \$225,000.00.....	\$13,536 00
Operating expenses	10,562 00
Depreciation	3,478 00
Total	\$27,576 00

According to the evidence, applicant has available and can deliver regularly, 1,500 miner's inches, and if the present rates to consumers on the main ditch and laterals of applicant remain undisturbed except to state such rates in terms of 4-inch pressure rather than 6, and a wholesale rate of \$16.00 for water delivered at the Penstock Reservoir, and a rate of \$20.00 for water delivered at the Penstock Reservoir into the pipes of colonists and collected by applicant from the individual consumers, with the mining company still paying \$200.00 per month, a total gross income of \$29,100.00 would result.

The only consumer which at present would get the benefit of the \$16.00 wholesale rate is the American Irrigation Company, but there

are plans now being perfected to organize some of these colonies into irrigation districts with the idea of purchasing water wholesale from applicant, and, of course, these irrigation districts or mutual water companies which now exist or which might be organized would get the benefit of this wholesale rate. It will be noticed that a higher rate is fixed for the colonists taking water at the Penstock Reservoir, but this is for the reason that applicant is compelled to deal with the individual consumers.

There has been much complaint of service among the colonists, and from the evidence introduced I think it is clear that much of the bad service has resulted from the fact that there has been little, if any, organization among the colonists as to the distribution and use of water, with the result that those colonists most favorably situated on the distributing lines have used water to the detriment of those less favorably situated, and I believe that service will not be materially improved until these colonies are organized in such a way as to permit control of the service among consumers to be had.

It may be that the opportunity to obtain the lower rate will in part be persuasive toward such organization.

Applicant should be required to file with this Commission rules and regulations governing service.

I recommend the following form of order:

ORDER.

Application having been made by North Fork Ditch Company, requesting that its rates for the service of water be fixed, and a public hearing having been had, and the Commission being fully advised in the premises, it is hereby found as a fact by the Railroad Commission of the State of California that the rates now charged by applicant in so far as they differ from the rates hereinafter in this order set out, are unjust and unreasonable, and that the rates set out in this order are just and reasonable rates to be charged by applicant to its consumers for water.

Basing its order upon the foregoing findings of fact and the further findings of fact contained in the opinion preceding this order,

It is hereby ordered by the Railroad Commission of the State of California that applicant may file with this Commission the following schedule of rates, said rates to become effective April 1, 1916:

\$20.00 per miner's inch per year to consumers on the main ditch and laterals.

20.00 per miner's inch per year delivered at the Penstock Reservoir, where collection is made direct from individual consumers.

16.00 per miner's inch per year for water delivered at the Penstock Reservoir, where collection therefor is made from one consumer.

200.00 per month for water delivered for mining purposes at Mississippi Bar Reservoir.

1.00 per month per consumer for domestic service.

The term "miner's inch" used herein means one-fiftieth cubic foot per second.

It is hereby further ordered that within the period of fifteen days from the date of this order, applicant file for the approval of this Commission rules and regulations governing its service of water.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 17th day of March, 1916.

DECISION No. 3166.

IN THE MATTER OF THE APPLICATION OF HUENEME, MALIBU AND PORT LOS ANGELES RAILWAY TO SELL PROPERTY AND OF HUENEME, MALIBU AND SOUTHERN RAILWAY TO PURCHASE PROPERTY AND ISSUE STOCK.

Application No. 2093.

Decided March 17, 1916.

Port Los Angeles Railway was organized for the purpose of constructing a railway from Port Los Angeles to Hueneme. Approximately 15 miles of road has been constructed, and it now applies jointly with the Southern Railway, a newly organized concern, for permission to transfer its properties to the latter company for such an amount of stock as the Commission shall deem reasonable. Permission granted for transfer of property and Southern Railway authorized to issue \$50,000.00 par value of its stock in payment therefor.

Marshal Stimson and O'Melveney, Stevens & Milliken, by Sayre Macneil, for Applicants.

REPORT OF THE COMMISSION.

Hueneme, Malibu and Port Los Angeles Railway, hereinafter referred to as the Port Los Angeles, was incorporated in September, 1903, with a capital stock of \$750,000.00, divided into 7,500 shares of the par value of \$100.00 each, for the purpose of constructing a railroad extending from what is known as the Long Wharf at Port Los Angeles northwest of Santa Monica, Los Angeles County, along the shore of the Pacific Ocean to Hueneme, Ventura County, a stated distance of 55 miles.

About 15 miles of the road has been completed of a standard gauge with standard ties and 60-pound rails, with wooden bridges and trestles of a substantial character. All of the construction has been upon the Malibu ranch and extends from about the easterly line of the ranch, which is about 7 miles northwesterly of Port Los Angeles, and connects with a private wharf on the Malibu ranch. About 5 miles of the road was built in each of three years, 1906, 1907 and 1908, as required by

law. The rolling stock consists principally of flat cars used in the construction of the line. The railroad has been used principally for transporting materials and supplies during the construction of the road, and in transporting goods upon and about the Malibu ranch, owned by the stockholders of applicants. The ranch has an ocean frontage of about 30 miles along the shore line, and a length along the air line location of the road of about 21 miles. In rare instances, goods have been transported for some tenants on the ranch. No request to transport goods has ever been refused.

The road as originally projected was intended to ultimately connect Santa Barbara and Ventura with Los Angeles, through a connection with the Southern Pacific or what is now the Pacific Electric System at Port Los Angeles.

The stockholders of the Port Los Angeles wish to proceed with the construction of the road, and as a preliminary seek to remove any doubt which may possibly rest upon its titles and corporate rights by reason of its failure to construct five miles of its road each year, as required by law. To accomplish this purpose, the stockholders have recently organized the Hueneme, Malibu and Southern Railway, herein-after referred to as the Southern. The Southern also has a capital stock of \$750,000.00, par value, divided into 7,500 shares of the par value of \$100.00 each. Applicants seek authority from the Railroad Commission to convey the property from the Port Los Angeles to the Southern, the property to be paid for by an issue of stock of the Southern.

Applicants submit the following statement of resources, liabilities, earnings and expenditures of the Port Los Angeles:

<i>Resources.</i>	
Roadbed	\$141,762 14
Right of way	73,934 65
Surveys and maps	30,372 67
Track equipment	63,673 45
Rolling stock	5,776 46
Bridges and culverts	24,246 40
Machinery and tools	683 23
Buildings and furniture	335 86
Instruments	560 91
Cash on hand	50 00
Total resources	\$341,395 77
Deficit	31,242 03
	<hr/>
	\$372,637 80

<i>Liabilities.</i>	
Rindge Company -----	\$11,966 55
Capital -----	360,671 25
Issued, 7,500 shares, \$100.00 par value-----	\$750,000 00
Discount -----	675,000 00
	<hr/>
	\$75,000 00
Assessments -----	285,671 25
	<hr/>
	\$372,637 80
Earnings and expenditures, year ending December 31, 1915:	
Earnings -----	None
Expenditures—	
Taxes -----	\$563 89
Miscellaneous expenses -----	43 20
	<hr/>
	\$607 09

The resources represent cash investment in the road, except the sum of \$67,500.00, which represents stock at par issued to the owners of the Malibu ranch for right of way upon the ranch. Right of way for a portion of the line lying between the Malibu ranch and Port Los Angeles was acquired from Joseph H. Call upon a cash payment of \$6,434.56. About \$30,000.00, it was testified, has been expended in repairs since 1908. Considerable damage to the road was done by the severe floods of 1914, all of which has been repaired. Repairs on account of damage suffered in the flood of January, 1916, are still in progress.

At the time of organization of the Port Los Angeles all of its \$750,000.00 par value of stock was subscribed and \$75,000.00 in cash paid in on account thereof. Subsequently, \$285,671.25 in cash was raised by calls or assessments upon the stockholders, all of which have been paid ratably in proportion to stock holdings. There have been almost no earnings by the road, and none during the year ending December 31, 1915.

Mr. N. D. Darlington, the engineer in charge of the survey and construction of the road already built, testified that the grading, which represents approximately 265,000 cubic yards of material moved, remains intact; that the steel has depreciated considerably, but can still be successfully used, and that most of the ties would have to be replaced. He made an off-hand estimate, without appraisal, of the present value of the road constructed, placing it at \$175,000.00 to \$200,000.00 for the tangible property. He states that it is practicable to construct a road at substantially water grade all the way from Port Los Angeles to Ventura, and that while the road constructed does not conform to a water grade, that it was built with the expectation of later correcting the grade to substantially a water grade, after the materials had been moved in over the line and the original construction work practically completed.

Detailed appraisalment was not offered by applicants, and no estimate of cost or value of the property has been made by the Commission's engineers, because applicants state that as the new stock is to be issued to the present stockholders of the Port Los Angeles in substantially the same proportion in which their Port Los Angeles stock is now held, they are not much interested in the amount of stock authorized, and it may be nominal in amount. We have acted accordingly, and authorize the issue of \$50,000.00 of stock at par in full payment for all the Port Los Angeles property, including all rights of way, with the understanding that the amount so authorized is not intended to represent the actual value of the property. Actual value has not been considered nor investigated in this proceeding further than stated herein.

There was introduced in evidence an agreement, dated February 9, 1916, a copy of which is attached to the application as Exhibit "G," by which the Southern agrees to pay within one year to M. X. Rindge and Rindge Company, a corporation, the reasonable value of the rights, titles, and interests conveyed by them to the Southern in a deed delivered contemporaneously therewith, and purporting to convey a strip of land generally 60 feet wide, extending from the easterly line of Malibu Rancho westerly to Yerba Buena Canyon in Ventura County, the strip to be used for right of way purposes, and being conveyed subject to all the rights and interests of the Port Los Angeles in said right of way. The agreement is made subject to an expressed limitation that the right of way is for the purposes of the agreement deemed of the value of \$225,000.00; but in the event this Commission shall within one year authorize an issue of stock in payment for the right of way and improvements thereon, the sellers shall be bound to accept as full payment the difference between the par value of the stock and the sum of \$225,000.00. Counsel explained that their interpretation of the agreement was that the sellers would be entitled to receive nothing if \$225,000.00 par value of stock were now authorized, but that they would be entitled to receive \$25,000.00 if \$200,000.00 par value of stock were now authorized, as prayed in the application.

This agreement is inconsistent with the expressed willingness of applicants that the amount of stock authorized need bear no relation to actual value.

We say frankly to applicants that we can not hereafter authorize the issue of further stock or approve any further payment in cash or property on account of the present purchase of the property of the Port Los Angeles, including all rights of way.

ORDER.

Application having been made to the Railroad Commission for an order authorizing Hueneme, Malibu and Port Los Angeles Railway to

sell and authorizing Hueneme, Malibu and Southern Railway to purchase all of the property of said first mentioned company, same to be paid for by an issue of shares of the capital stock of the latter company, and a hearing having been held thereon and it appearing to be for the public interest that the transfer of said property and the issue of said stock be authorized.

It is hereby ordered by the Railroad Commission of the State of California that Hueneme, Malibu and Port Los Angeles Railway be and it is hereby authorized and empowered to sell, and Hueneme, Malibu and Southern Railway be and it is hereby authorized to purchase, all of the real and personal property of said first mentioned company, including location, rights of way, surveys, maps, instruments, structures, buildings, furniture, rolling stock, machinery, tools and equipment, and to issue at par to said Hueneme, Malibu and Port Los Angeles Railway or its order 500 shares of its capital stock of the par value of \$100.00 each, in full payment therefor.

This order is made upon the following conditions, and not otherwise:

1. The stock herein authorized to be issued shall not be taken before this Commission, or any other public authority, as representing for rate fixing purposes, or any purpose other than the present application, the actual value of the property referred to.

2. The property and rights hereinbefore and in said agreement referred to shall be transferred to Hueneme, Malibu and Southern Railway free of debt or incumbrance.

3. The authority hereby granted shall apply only to such property and rights as shall have been transferred and such stock as shall have been issued on or before sixty (60) days after the date hereof.

4. Within twenty (20) days after the transfer herein authorized shall have been made, both applicants shall report said fact to this Commission in writing, and supply copy of instruments of transfer of said property.

5. Hueneme, Malibu and Southern Railway shall keep separate, true, and accurate accounts, showing the receipt and application in detail of the proceeds of the sale of stock herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission, stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this 17th day of March, 1916.

DECISION No. 3167.
EARLIMART PROGRESSIVE CLUB
vs.
SOUTHERN PACIFIC COMPANY.

Case No. 901.

Decided March 17, 1916.

Complainant petitions the Commission to direct that defendant construct suitable station facilities and maintain an agent at Earlimart; also, to have train No. 84 stopped at that point for the convenience of passengers, and an investigation showing that the facilities petitioned for are necessary and reasonable, *Held*, Defendant directed to erect, within ninety days, a frame passenger and freight depot and maintain an agent at such point for a period of six months, after which time, should it appear that the business developed does not warrant the services of an agent, application may then be made for his withdrawal. Defendant also to arrange for the stopping of train No. 8, instead of No. 84, at Earlimart.

Lamberson, Burke & Lamberson, and *James M. Burke*, for Complainant.
Geo. D. Squires, for Defendant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is a complaint on behalf of the Earlimart Progressive Club, a civic association composed of residents in the vicinity of Earlimart, in the county of Tulare, which alleges that the facilities and service furnished by the Southern Pacific Company at the station of Earlimart on its San Joaquin Division are insufficient and inadequate; also, that but one eastbound train daily is scheduled to stop at Earlimart, and that the public convenience and necessity require that train No. 84 should stop regularly at this point. The defendant filed its answer denying the material allegations of the complaint. A public hearing was held at Earlimart on February 26, 1916, and the matter was submitted and is now ready for decision.

The station of Earlimart is located on the San Joaquin Division of the Southern Pacific Company, and is 5.6 miles east of the agency station of Pixley and 8.3 miles west of the agency station at Delano. The station of Earlimart serves a growing and progressive community, engaged principally in poultry raising and dairying. The witnesses for the complainant testified as to the inconvenience to which they had been subjected by lack of station facilities, and that as a result of same some of the shippers and receivers of freight had found it necessary to transact their business at the agency stations maintained at Pixley and Delano, notwithstanding that the distance to these stations was

considerably more than to the station of Earlimart. Some of the witnesses testified that while they would prefer to transact their business at Earlimart, that by reason of the lack of station facilities and accommodations they were patronizing the agency station maintained by The Atchison, Topeka and Santa Fe Railway Company at Allensworth, notwithstanding the necessity of traversing a considerably greater distance and over roads that were not as good as those leading to the station of Earlimart.

In view of the unanimous testimony as to the inconvenience suffered by the patrons of the Southern Pacific Company tributary to the station of Earlimart, I am of the opinion that a station building of sufficient size to properly accommodate the business of the patrons of the railroad should be erected at this point, and that upon completion of such station an agent should be appointed by the Southern Pacific Company and thereafter maintained until the further order of the Commission. If after six months trial, of an agent at Earlimart, it is found that sufficient business has not developed to justify his continuance, the defendant, Southern Pacific Company, may make application to the Commission for a supplemental order in this proceeding.

I will now consider the matter of the request for the stopping of train No. 84. Witnesses for the complainant testified that the schedule of the San Joaquin Division of the Southern Pacific Company provided for the stopping of but one eastbound train at Earlimart, such train being numbered 108 and scheduled to arrive at Earlimart at 10.25 a.m. As there is no afternoon or evening train scheduled to stop eastbound, it is impossible for residents served by Earlimart Station to transact any business in the city of Fresno, or in Visalia (county seat of Tulare County), and be able to return to their homes on the same day, unless by making use of the facilities offered at the stations at Pixley or Delano. This is a discrimination not imposed upon other communities in this vicinity, and from which the patrons of the Southern Pacific Company at Earlimart are entitled to relief. As was pointed out at the hearing of this case, train No. 84 is a fast passenger train from San Francisco intended to give quick service to Bakersfield and the oil fields, and if such train were obliged to make stops at all stations, its efficiency would be seriously interfered with and complaint would be made by through passengers. The defendant, Southern Pacific Company, through its attorney, suggested that train No. 8 stop at Earlimart in lieu of train No. 84. Train No. 8 is a through train, San Francisco to Los Angeles, scheduled to arrive at Earlimart at 9.02 p.m. The stopping of train No. 8 will relieve the conditions complained of regarding the inability of residents of Earlimart and vicinity to transact business in Fresno and Visalia and return to their homes on the same

day. It will also facilitate the forwarding of express shipments of dairy products, poultry, eggs, etc., to Los Angeles, enabling them to arrive at that point at an early hour on the morning following shipment. Passengers for points south of Bakersfield and to Los Angeles will also be able to make the trip without change of cars and layover at Bakersfield, which would be necessary were train No. 84 to be scheduled as a stop at Earlimart. The complainants expressed their willingness to have train No. 8 stopped at Earlimart, in lieu of train No. 84, as originally requested.

I recommend the following form of order:

ORDER.

Earlimart Progressive Club, a civic association, having filed complaint requesting an order of this Commission requiring the erection of a station building at Earlimart, on the San Joaquin Division of the Southern Pacific Company; the establishment of an agent; and the stopping of eastbound train No. 84, a public hearing having been held and the Commission being fully advised in the premises,

It is hereby ordered that within ninety days after the service of this order, a combination freight and passenger station of frame construction be erected at or near the present freight platform at Earlimart, on the San Joaquin Division, such station to be erected in accordance with plan and elevation as shown on Southern Pacific Company's drawing M-W-D, Drawing 1292, Sketch A-1, Drawer 42, as heretofore filed with this Commission.

It is further ordered that upon the completion of the station hereinabove referred to the Southern Pacific Company will install and maintain a competent agent for the transaction of its business at the station of Earlimart, and continue such station of Earlimart as an agency for a period of at least six months, and thereafter unless otherwise ordered by this Commission. The Southern Pacific Company will keep a true and accurate account of the business transacted at the said station of Earlimart for the six months' period following the appointment of an agent and submit such record of business transacted to this Commission.

It is further ordered that within ten days after the service of this order the Southern Pacific Company will arrange for the stopping of its train No. 8 at Earlimart as a regular stop, and continue the stopping of such train each day thereafter unless otherwise authorized by permission of this Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 17th day of March, 1916.

DECISION No. 3168.

IN THE MATTER OF THE APPLICATION OF MIDLAND COUNTIES
PUBLIC SERVICE CORPORATION FOR AUTHORIZATION FOR THE
RENEWAL OF CERTAIN PROMISSORY NOTES.

Application No. 2085.

Decided March 17, 1916.

Applicant authorized to renew for a period of not to exceed one year from present date of maturity eleven certain promissory notes, aggregating a total face value of \$102,089.20.

A. E. Peat, for Applicant.

REPORT OF THE COMMISSION.

By the amended application, Midland Counties Public Service Corporation requests an order authorizing it to refund for periods not exceeding in the aggregate, in any instance, one year from the date of maturity thereof the notes described in the order herein. According to the evidence, all of the notes except the two notes issued to Kaspere Cohn have heretofore been authorized by this Commission. Since they were authorized May 7, 1915, the company has paid on account of said notes the sum of \$37,500.00. The two notes payable to Kaspere Cohn represent applicant's unpaid interest on bonds, the money for which was used by applicant to pay other indebtedness properly chargeable to capital account, instead of bond interest.

ORDER.

Midland Counties Public Service Corporation having applied to the Railroad Commission for an order authorizing the issue of promissory notes to refund the notes described below, and a public hearing having been held thereon, and it appearing to the Commission that the notes which the applicant seeks authority to refund were issued for purposes not reasonably chargeable in whole or in part to operating expenses or to income, and that it is reasonably necessary that applicant refund the notes mentioned,

It is hereby ordered that Midland Counties Public Service Corporation be and it is hereby authorized to issue promissory notes in the

following amounts, at the rates of interest shown and to the following payees, to wit:

Payee	Amount	Interest	Rate maturity
Kaspere Cohn -----	\$1,100 00	6%	Feb. 5, 1916
Kaspere Cohn -----	1,644 77	6%	Feb. 5, 1916
Westinghouse Electric and Manufacturing Co..	9,017 73	6%	May 10, 1916
J. A. Roebling's Sons Co.-----	10,477 12	6%	May 24, 1916
J. A. Roebling's Sons Co.-----	12,679 99	6%	June 18, 1916
National Conduit and Cable Co.-----	12,000 00	7%	June 23, 1916
First National Bank of Coalinga-----	6,500 00	6%	June 25, 1916
Western Electric Company-----	2,382 43	6%	June 25, 1916
United States Aluminum Company-----	39,500 00	6%	June 17, 1916
Western Electric Company-----	2,931 57	6%	July 15, 1916
Western Electric Company-----	3,875 59	6%	July 16, 1916

It is hereby further ordered that the notes herein authorized to be issued shall be used only for the purpose of refunding all or part of notes now outstanding, payable to the above named persons.

It is hereby further ordered that the notes herein authorized shall be made payable during a period not exceeding one year from the date of the maturity of the notes to be refunded, and that applicant may issue and reissue said notes for said term or terms, as it may desire, provided that the aggregate of said terms shall not exceed one year, in any instance, from the date of the maturity of the note refunded.

It is hereby further ordered that applicant shall report in writing to the Railroad Commission after the refunding of the foregoing notes, or any or either of them and thereafter, all in accordance with the provisions of General Order No. 24.

This order shall not become effective until Midland Counties Public Service Corporation has paid the fee specified in section 57 of the Public Utilities Act.

Dated at San Francisco, California, this 17th day of March, 1916.

DECISION No. 3169.

IN THE MATTER OF THE APPLICATION OF E. C. PHOENIX, RECEIVER
AMERICAN IRRIGATION COMPANY, FOR ADJUSTMENT OF RATES
FOR WATER FURNISHED BY SAID COMPANY IN THE COUNTY
OF SACRAMENTO.

Application No. 1678.

Decided March 17, 1916.

American Irrigation Company contracted to deliver water for irrigation at \$3.00 per acre per year, and domestic water at \$12.00 per year. Under this rate the company became bankrupt, and it now applies to the Commission to establish rates which will provide operating expenses, taxes, depreciation, and, if found

reasonable, a return upon the capital invested. Consumers, while agreeing that rates must be increased to continue this company in operation, protest against providing a return upon the investment, contending that this capital was provided for by the prices charged for land sold by the company.

Held, That though no definite evidence was tendered to show that the irrigation company received sufficient from its land sales to provide for the capital invested in the irrigation system, nevertheless it entered into contracts to deliver water at a rate which must now be doubled to continue this system in operation, and no return should be allowed upon the investment. Depreciation provided for, conditioned upon the proviso that the amount allowed shall be used in improvements and betterments to the system.

Held, The following rates established, to become effective April 1, 1916: \$37.50 per miner's inch per year to consumers in Fair Oaks Colony; \$1.00 per month for domestic service; \$9.00 per miner's inch per year for water conveyed through its pipes to Carmichael colonies, or, if served direct to such consumers, the same rates shall apply as to Fair Oaks Colony. Former rates of applicant were charged irrespective of whether water was used or not; the rates herein established are for water actually delivered.

Frank F. Atkinson, of *Elliott & Atkinson*, for receiver of American Irrigation Company.

Lester Hinsdale, for North Fork Ditch Company.

Chauncey H. Dunn, for Citrus Heights Colony.

J. M. Inman, for Fair Oaks Water Takers Association.

Sheridan Downey, of *Downey, Pullen & Downey*, for Fair Oaks Water Takers Association.

O. G. Hopkins, for Orangevale Water Company and American Irrigation Company.

R. L. Shinn, for Carmichael Colony System.

REPORT OF THE COMMISSION.

EDGERTON, Commissioner.

This is an application by E. C. Phoenix, as receiver of the American Irrigation Company, whereby this Commission is asked to fix the rates for domestic and irrigation water furnished by applicant to its consumers.

The plant consists of a transmission pipe and distributing pipes leading therefrom, which pipes serve consumers in Fair Oaks Colony, Sacramento County, and attached to this system are distributing pipes owned by others than applicant, which serve communities called Carmichael Colonies Nos. 1 and 2 and Citrus Heights and additions. Water is obtained by applicant at a point about 2 miles from the Penstock Reservoir of North Fork Ditch Company, payment being made to the latter for said water at the stated rate of \$18.00 per miner's inch per year, under a 4-inch pressure.

Applicant's present rates to its consumers in Fair Oaks Colony are \$3.00 per acre per year for irrigation and \$12.00 per consumer per

year for domestic use, and in Carmichael Colonies Nos. 1 and 2 and Citrus Heights and additions, the stated rates are \$4.00 per acre per year for irrigation and \$12.00 per consumer per year for domestic use.

From the evidence it appears that applicant paid North Fork Ditch Company for water an amount in excess of that which it collected from its consumers, with the result that it has never earned operating expenses and taxes. It became bankrupt in 1914, when a receiver was appointed by the Superior Court of Sacramento County to take charge of the property, and it is still under this receivership, having steadily increased its indebtedness since his appointment.

The consumers of applicant hold contracts wherein the rate for water is fixed at \$3.00 per annum for irrigation and \$12.00 per annum per consumer for domestic use, but it is conceded by the attorneys for Fair Oaks Water Takers Association, who appeared in this proceeding, that the rates set out in said contracts must be increased, in order that the plant may continue in operation and be put in such a state of repair as to improve service. However, it is urged that no depreciation and no return upon the investment be allowed.

The receiver urges that operating expenses, taxes and depreciation be allowed, and submits for the judgment of the Commission the determination of whether or not any return upon investment should be added.

American Irrigation Company and Capital Banking and Trust Company, new trustee, appeared in this proceeding and urged that rates be fixed sufficiently high to provide a return on the investment, or value, of applicant's plant.

Fair Oaks Water Takers Association, through its counsel, urges that the owners of this plant have received full compensation therefor, either through an additional price received for the sale of land owned and sold by them, or in the benefit they derived through the increase in value of land owned by them.

Evidence was introduced purporting to show that this water system was in effect used for the benefit of its owners in their land schemes, and it is insisted that no earning should be allowed upon the investment, because present consumers paid such a price for their land as to make it unfair that they should now be compelled to pay rates sufficient to provide an earning upon the water plant.

The evidence is not clear or convincing as to just what relation the land and the price obtained therefor bear to this irrigation system. It is impossible to determine, even approximately, what benefits inure to the owners of this system through their land operations. However, I am impressed with the fact that the present consumers held written contracts for water at \$3.00 per acre per year, and that the service now being rendered is not such as to warrant the owners of this system

enjoying a return, which could only be justified upon the rendering of efficient service, and that to produce operating expenses, taxes, and depreciation will require that the rates of these consumers would have to be more than doubled. However, as is conceded by the water takers association, some increase in rate is necessary in order that the operation of this system may continue, and, furthermore, such a sum must be provided as will insure the repair of this system to such an extent as to make the service reasonably good. I shall recommend a rate, therefore, which will provide operating expenses, taxes, and such an amount for depreciation as will permit of the repair and rehabilitation of the plant, so as to provide for not only a continuation of the service given, but for a bettering of that service. Of course, this Commission will insist that all money allowed for depreciation will be reinvested in plant, so that as rapidly as possible the system will be put in better condition.

The contracts now in existence provide that the consumers shall pay \$3.00 per acre per year, whether they receive water or not. The rates herein recommended are for the water actually received by the consumers.

It appears that American Irrigation Company has been collecting direct for water furnished to consumers in Carmichael Colonies Nos. 1 and 2 and Citrus Heights and additions, but that it does not own any part of the system furnishing these communities. We now have an application, by L. A. Hilborn, asking that rates be fixed for these colonies. However, the water used in these colonies runs through the main pipe of American Irrigation Company. Therefore, it will be necessary, in addition to fixing the rates for the latter company for water delivered to its consumers in Fair Oaks, to also fix a rate to be paid for the use of its main pipe in conveying water to these other colonies.

The receiver suggests that operating expenses, including taxes, be figured at \$6,522.00 per annum, and that amount is almost the same as the water takers association proposes. From the evidence, the proposal of the receiver seems reasonable, and therefore I will adopt \$6,522.00 for the proper amount of operating expenses, including taxes.

The engineers of the Commission and the engineer of applicant are in very close agreement on depreciation. Therefore, I will adopt the figure of \$5,520.00 per annum as the amount to be allowed as depreciation, which amount shall be used in the repair and rehabilitation of the plant.

The Commission has this day fixed the rate to be paid by applicant to North Fork Ditch Company at \$16.00 per miner's inch, which, upon the amount of water at present used by applicant's consumers, will

require the sum of \$10,240.00. This makes a total gross earning necessary of

Maintenance, operation and taxes.....	\$6,522 00
Depreciation	5,520 00
Water purchased	10,240 00
Total	\$22,282 00

To produce this earning, it will be necessary to fix rates at \$37.50 per miner's inch, or one-fiftieth of a second-foot, \$1.00 per month per consumer for domestic service, and \$9.00 per miner's inch for all water conveyed through the pipes of applicant to the consumers in Carmichael Colonies Nos. 1 and 2 and Citrus Heights and additions. The above rates are fixed upon the assumption that the consumers in Carmichael Colonies Nos. 1 and 2 and Citrus Heights and additions will make payments for water direct to North Fork Ditch Company, but in the event that the present practice is continued, and these consumers make payment for water to American Irrigation Company, the rates shall be the same as are fixed for the direct consumers of American Irrigation Company.

I recommend that applicant be ordered to file, for the approval of the Commission, rules and regulations governing service within fifteen days from the date of this order.

Herewith a form of order:

ORDER.

Application having been made by E. C. Phoenix, as receiver of American Irrigation Company, requesting that the rates of said company for the service of water be fixed, and a public hearing having been had and the Commission being fully advised in the premises, it is hereby found as a fact by the Railroad Commission of the State of California, that the rates now charged by applicant, in so far as they differ from the rates hereinafter in this order set out, are unjust and unreasonable, and that the rates set out in this order are just and reasonable rates to be charged by applicant.

Basing its order upon the foregoing finding of fact and the further findings of fact set out in the opinion preceding this order,

It is hereby ordered by the Railroad Commission of the State of California that applicant file with this Commission the following schedule of rates, said rates to become effective April 1, 1916:

\$37.50 per miner's inch per year for water furnished consumers in Fair Oaks Colony.

\$1.00 per month per consumer for domestic service.

\$9.00 per miner's inch per year for the use of its pipes in the conveyance of water to Carmichael Colonies Nos. 1 and 2, and Citrus Heights and additions.

In the event that consumers in Carmichael Colonies Nos. 1 and 2, and Citrus Heights and additions, individually take water from, and pay therefor direct to applicant, the rates shall be \$37.50 per miner's inch per year for irrigation, and \$1.00 per month per consumer for domestic use.

The term "miner's inch," used herein, means one-fiftieth cubic foot per second.

It is hereby further ordered that within the period of fifteen days from the date of this order applicant file, for the approval of this Commission, rules and regulations governing its service of water.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 17th day of March, 1916.

DECISION No. 3170.

IN THE MATTER OF THE APPLICATION OF L. A. HILBORN FOR AN
ADJUSTMENT OF RATES FOR WATER FURNISHED BY HIM IN
THE COUNTY OF SACRAMENTO.

Application No. 1701,

Decided March 17, 1916.

*Frank F. Atkinson, of Elliott & Atkinson, for receiver of American
Irrigation Company.*

R. L. Shinn, for Carmichael Colony System.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application by L. A. Hilborn, requesting that the Commission fix rates on a water distributing system owned by him in Carmichael Colony No. 1, Sacramento County.

Since the filing of this application and the hearing therein, an application has been made, and a hearing had thereon, wherein the Commission is requested to fix the just compensation to be paid by Carmichael Irrigation District for this system.

In view of the fact that at the hearing in the application to fix just compensation for this system, both the irrigation district and Mr. Hilborn agreed upon a price, it is highly probable that this system will be transferred to the irrigation district shortly.

In view of this situation, I see no reason for fixing rates pending this sale, and therefore recommend that this application be dismissed without prejudice to its being renewed if the sale is not made.

Herewith a form of order:

ORDER.

Application having been made by L. A. Hilborn, requesting that the rates on a water distributing system in Carmichael Colony No. 1 be fixed, and a hearing having been had and it appearing, for the reasons set out in the foregoing opinion, that this application should be dismissed,

It is hereby ordered by the Railroad Commission of the State of California that this application be and it is hereby dismissed, without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 17th day of March, 1916.

DECISION No. 3171.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AN ORDER AUTHORIZING THE EXTENSION OF A SPUR TRACK AT GRADE ACROSS PACIFIC STREET, IN THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA.

Application No. 2116.

Decided March 18, 1916.

Applicant applies for permission to construct a spur track along Front street, crossing Pacific street, and though a protest is made by certain property owners in the vicinity against the granting of such application, it appears from the evidence that the proposed spur will not obstruct traffic, and is necessary to the facilities which it is proposed to serve, application granted.

Geo. D. Squires, for Southern Pacific Company.

Henry C. Costa, for Vanderbilt Estate.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This application was filed by the Southern Pacific Company on behalf of Mrs. Virginia Vanderbilt, the owner of property on the northeast corner of Block 19, in Front street. It is desired to extend an existing spur track from its present terminus at the south line of Pacific street, across that street and along Front street, and more particularly described as follows, to wit:

Beginning at a point in the northerly line of Pacific street, produced 15 feet easterly from the westerly line of Front street, where a spur track now terminates; thence southerly parallel with the westerly line of Front street, crossing Pacific street, to a point sixty-one feet eight inches (61' 8") southerly from the southerly line of Pacific street.

The entire length of the proposed extension, including the crossing of Pacific street, will be 111 feet.

Attached to the application is a certified copy of Bill No. 2936, Ordinance No. 3597 (new series) of the board of supervisors of the

city and county of San Francisco, granting permission to Mrs. Virginia Vanderbilt for the construction of the above described extension to the spur track.

A protest against the granting of permission for the construction of this spur track was filed by Jas. F. Brennan, as attorney for business men and property owners on Front street, in which it is alleged that the board of supervisors of the city and county of San Francisco were not fully informed as to the wishes and rights of the business men and property owners adjoining Front street when they passed said ordinance and bill; that said business men and property owners on Front street did not know that any application was pending before the board of supervisors for a permit for said spur track, and that the granting of this application will seriously interfere with traffic on Pacific and Front streets, and work to the detriment of the business men and property owners on Front street, between Pacific street and Jackson street.

A hearing was held on March 16, 1916, at which the applicant and the Vanderbilt Estate were represented, but no appearance was made by the protestants. It developed at the hearing that by Resolution No. 12699 (new series), copy of which was introduced in evidence, the board of supervisors of the city and county of San Francisco on March 13, 1916, denied a petition filed by the protestants for the revocation of the spur track permit granted by said board of supervisors in the resolution referred to above.

The engineering department made its report to the Commission, and the facts appear to be that the proposed spur track extension will be long enough to hold but one freight car, and occasionally will be used for switching purposes only during the hours from 6 p.m. to 7 a.m.

It appears that this locality is a wholesale district, depending upon spur track facilities for the proper transaction of business, and that there are other spur tracks across Pacific street east of Front street. The operation over this spur track will be carried on by the State Belt Line Railroad. The engineering department also reports that a separation of grades at that point is impracticable.

It is the Commission's duty in cases of this kind to weigh against each other, considerations of public convenience and necessity and considerations of hazard and danger to life and property. There is no doubt in my mind that in the present instance the increased hazard of operation, by reason of the proposed one hundred and eleven (111) foot extension, and under the conditions of safeguard governing the railroad operation at that point, is practically negligible, while the public necessity for the construction of this spur track extension and the additional convenience to the public is real and compelling.

It is my recommendation, therefore, that this application be granted, subject to the provisions of the ordinance of the board of supervisors of the city and county of San Francisco, above referred to.

I submit the following form of order:

ORDER.

Southern Pacific Company, a corporation, having on March 3, 1916, filed with the Commission its application for an order authorizing the extension of a spur track across Pacific street at grade, in the city and county of San Francisco, California, and more particularly described in the opinion preceding this order, and a hearing having been held, and it appearing to the Commission that the application should be granted,

It is hereby ordered that permission be hereby granted Southern Pacific Company to construct and extend its spur track at grade across Pacific street, in the city and county of San Francisco, California, in accordance with the provisions of Ordinance No. 3597, passed by the board of supervisors of said city and county of San Francisco, and hereinbefore referred to.

The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance, and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and findings of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 18th day of March, 1916.

DECISION No. 3172.

IN THE MATTER OF THE APPLICATION OF THE NAPA TRANSPORTATION COMPANY FOR AUTHORITY TO ESTABLISH CLASS RATES BETWEEN SAN FRANCISCO AND NAPA, AND CERTAIN WAY POINTS, AND TO ADJUST COMMODITY RATES IN THE SAME TERRITORY.

Application No. 1661.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO, NAPA AND CALISTOGA RAILWAY FOR AUTHORITY TO CANCEL CERTAIN CARLOAD AND L. C. L. COMMODITY RATES, AND TO INCREASE CERTAIN CLASS AND COMMODITY RATES BETWEEN SAN FRANCISCO AND POINTS ON THE LINE OF SAN FRANCISCO, NAPA AND CALISTOGA RAILWAY.

Application No. 1743.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AUTHORITY TO CANCEL CERTAIN L. C. L. COMMODITY

RATES, AND TO INCREASE CERTAIN CLASS AND COMMODITY RATES APPLYING BETWEEN SAN FRANCISCO, OAKLAND WHARF, ELMHURST, SOUTH VALLEJO, AND POINTS ON THE NAPA, UNION AND SANTA ROSA BRANCHES.

Application No. 1744.

Decided March 20, 1916.

Napa Transportation Company, upon a showing that it is operating at a heavy loss under its present rates established under competitive conditions, is authorized to cancel such freight tariff and to put into effect within twenty days the schedule of class rates as prescribed by the Commission.

San Francisco, Napa and Calistoga Railway, and Southern Pacific Company, showing that the freight tonnage which they move between San Francisco and points in Sonoma and Napa counties occasions a considerable annual loss, apply for and are granted permission to cancel their less than carload commodity rates, and put into effect within twenty days carload commodity rates and schedule of class rates, as set forth in the accompanying order.

Milton T. U'Ren and D. L. Bear, for Napa Transportation Company.

C. E. Brown and John T. York, for San Francisco, Napa and Calistoga Railway.

George D. Squires, for Southern Pacific Company.

Charles N. Hatch, for Monticello Steamship Company, Intervenor.

Seth Mann and J. S. Willis, for San Francisco Chamber of Commerce, Protestant.

J. P. Overton and Walter H. Nagle, for Santa Rosa Chamber of Commerce, Protestant.

Wade Madren, for Vallejo Chamber of Commerce, Protestant.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner*.

The Napa Transportation Company; San Francisco, Napa and Calistoga Railway, and the Southern Pacific Company, by separate applications, filed respectively, May 7 and May 11, 1915, petitioned the Commission under section 63 of the Public Utilities Act to permit them to increase certain class and commodity rates between San Francisco and other bay points on the one hand and certain points in the territory served by applicants in Sonoma and Napa counties on the other.

The Napa Transportation Company, hereinafter referred to as the steamship company, is a corporation organized under the laws of the State of California. It owns and operates steamers engaged in the transportation of freight and passengers between San Francisco and Napa. A brief history of the origin of this steamship company and of the property which it controls is relevant. Prior to 1912 the steamship line was owned by what was commonly known as the Hatt interests; this

company became insolvent and its assets were purchased by the present steamship company from the receiver for approximately \$31,600.00. The purchase price included the steamers "St. Helena" and "Zinfandel," the wharf and warehouses located on leased land at Napa, and properties of small values at other points. The steamers when transferred, were in poor condition and large sums of money have recently been expended to keep them in running order. The balance statement as of June 30, 1915, prepared by this Commission's auditing department is as set forth below:

<i>Assets.</i>	
Cash in bank and due from agents.....	\$5,122 08
Steamers and equipment cost.....	32,677 93
Merchandise stores and office equipment.....	356 39
Deficit	43,453 23
	<hr/>
	\$81,600 63

<i>Liabilities.</i>	
Notes payable:	
Davis & Son, insurance*.....	\$525 00
Bank of Napa, September 6, 1913.....	3,000 00
Bank of Napa, December 20, 1913.....	2,500 00
Bank of Napa, January 10, 1914.....	1,500 00
	<hr/>
	\$7,525 00
Accounts payable:	
Bank overdraft	\$38,296 15
Pay roll, June 30, due.....	1,974 60
Sundry accounts	2,213 88
	<hr/>
	42,484 63
Purchase price of Hatt interests.....	31,600 00
	<hr/>
	\$81,600 63

In support of the steamship company's contention that the financial needs justified the proposed increases, its president testified that neither the present management nor its predecessors had been able to make the property pay because the rates for various competitive reasons had been maintained on entirely too low a basis. The records indicate that prior to the construction of the electric railway between Vallejo and Napa, the passenger revenue created the profit upon which the boat lines were able to exist and when this traffic disappeared the water carrier commenced to get into difficulty. The boats purchased in 1912 were obtained at a greatly reduced price and the new owners hoped by rehabilitating the property and securing additional traffic to place it on a profitable basis. This hope has not been realized.

A check of the steamship company's reports since it began operation, October 1, 1912, to June 30, 1915, a period of thirty-three months,

*All 6 per cent. no interest paid for year.

NOTE.—Bank "Overdraft" as liabilities is an amount accumulated by payment of checks and held against the company by the bank for future collection. Daily deposits are not made subject to this overdraft, hence balance of \$5,122.08.

shows a loss of \$39,710.69, or approximately \$1,200.00 per month, as follows:

	Period of 15 months, Oct. 1, 1912, to Dec. 31, 1913	Jan. 1, 1914, to Dec. 31, 1914	Period of 6 months, Jan. 1, 1915, to June 30, 1915
<i>Operating Revenue.</i>			
Freight revenue -----	\$86,341 03	\$59,564 15	\$20,477 97
Passenger revenue -----	1,681 90	1,120 10	119 20
Total revenue -----	\$88,022 93	\$60,684 25	\$20,597 17
<i>Operating Expenses.</i>			
Shore expenses -----	\$27,145 90	\$18,565 99	\$7,390 12
Mess supplies -----	8,359 71	8,591 98	2,337 06
General expenses—boats -----	9,744 25	14,704 23	3,920 31
Labor—deck, engine and mess -----	29,141 43	26,287 53	7,928 71
Fuel -----	11,708 30	7,847 65	3,071 99
Renewals and repairs—deck and engine -----	10,198 65	8,206 49	1,169 54
Supplies—deck and engine -----	1,233 54	1,045 45	416 21
Total expenses -----	\$97,531 78	\$85,249 32	\$26,233 94
Net loss -----	\$9,508 85	\$24,565 07	\$5,636 77

Further testimony is to the effect that the wages of the boat employees have greatly increased during the past few years, that under present regulations additional deckhands are required, and that fuel oil costs more, as do also the supplies used in the commissary department. The expense of workmen's compensation insurance is given as \$1,534.00 per annum. The point is that the expense per ton of freight has increased while the rates have remained stationary on some commodities and have been reduced on others.

The steamship company provides in its present tariffs for specific commodity rates only and it now desires to cancel practically all of these commodity rates and in lieu thereof provide a scale of class rates subject to the Western Classification. Proposed class rates to and from San Francisco are as follows:

	1	2	3	4	5	A	B	C	D	E
Winchaven -----	9	7	7	6	4	4	4	4	3½	3½
Oleum -----	11	9	8	7	6	6	6	6	5½	5½
Vallejo, Mare Island -----	12	10	8	7	6	6	6	6	5½	5½
Napa -----	15	13	12	10	9	9	8	7½	7	7

Increases to other points are on a like basis.

A statement covering all shipments handled during two representative months of the year 1915 was secured from applicant and by applying the proposed rates to the tonnage it is ascertained that the increased revenue will amount to approximately \$600.00 per month, or only one-half the average deficit per month incurred during the first thirty-three months of the company's existence.

From the foregoing it is apparent that the financial results from the operation of this steamship line have been far from satisfactory, and it is asserted that only the ability of applicant to secure loans upon its property has maintained the company while operating at a loss and that it is now doubtful whether it can continue much longer at the present rates.

The steamship line serves all of the grain warehouses, lumber yards, tanneries, and other industries located on the river at Napa, there being no private tracks connecting with the competing railroads. The services rendered are without doubt of great value to these industries and to farmers and other shippers at the different landings on the river and on the bays between Napa and San Francisco. This carrier can not earn sufficient revenue with the present schedule of rates to meet actual out-of-pocket expenses, and unless relief is given, its operations will be discontinued, thus inflicting a hardship on many of its patrons. Interested parties had notice of the hearings, but no protest was made against the proposed increases either by the Napa Chamber of Commerce or by any individual shipper, and the records would indicate that the patrons of this applicant preferred not to interpose objections which might delay an adjustment of the situation.

I am of the opinion, upon the showing made, that this application should be granted in part, viz, applicant be authorized to cancel its present commodity rates and establish in lieu thereof the Western Classification, the commodity rates set forth in the application and the class rates provided in Exhibit No. 1 attached hereto.

The San Francisco, Napa and Calistoga Railway, hereinafter referred to as the electric line, operates between Vallejo and Calistoga through Napa, and has joint rates to San Francisco in connection with the Monticello Steamship Company. Application is made to increase class rates between San Francisco and Napa, and other points adjacent thereto, to the same basis as those proposed by the Napa Transportation Company and the Southern Pacific Company in this proceeding.

Following is comparative statement of present and proposed class rates between San Francisco and principal points affected:

Between San Francisco and Flores to Napa, inclusive—	1	2	3	4	5	A	B	C	D	E
Present	13	9	8	8	6	6	6	6	5½	5½
Proposed	15	13	12	10	9	9	8	7½	7	7
Between San Francisco and Union—										
Present	16	12	10	8	6	6	7	6½	6	5½
Proposed	16	13	12	10	9	9	8	7½	7	7
Between San Francisco and Oak Knoll-Trubody—										
Present	17	12	11	9	8	8	8	7½	7	6½
Proposed	17	13	12	10	9	9	8	7½	7	7

Application is also made to cancel the less carload commodity rates on buttermilk, dried fruit, groceries and wine from, to or between San Francisco and various points, and to allow Western Classification and class rates to apply.

The application of San Francisco, Napa and Calistoga Railway Company further seeks permission to change rules and regulations, particularly those affecting storage charges, and the handling of returned empty packages or carriers. Under its present rules second-hand empty packages are returned free of charge, whereas other carriers throughout the State make a charge of approximately 15 per cent of charges assessed against same packages when new. These changes will place the tariffs of the electric line on the same basis as those of its competitors.

The San Francisco, Napa and Calistoga Railway Company owns, operates, and maintains a single track electric trolley line from the city of Vallejo to Calistoga, a distance of 41.596 miles. The line was originally constructed by the Vallejo, Benicia and Napa Valley Railroad Company from Vallejo to Napa, a distance of 15.403 miles, and later the San Francisco, Vallejo and Napa Valley Railroad Company, incorporated July 7, 1906, secured control through the ownership of stock and bonds of the former company. This company extended the road to St. Helena, 33.84 miles from Vallejo. In 1911, the San Francisco, Vallejo and Napa Valley Railroad Company defaulted interest payment and the property was sold at foreclosure sale. The property was purchased by a committee representing the bondholders, consisting of James Irwin, John D. McKee and George Sheldon. This committee disposed of the property to the present company December 1, 1911.

Since the date of purchase, and to June 30, 1915, the company has expended for extensions, additions, and betterments the sum of \$207,700.16, including the cost of construction from St. Helena to Calistoga, a distance of 7.75 miles. This amount was partly raised by the sale of \$150,000.00 worth of first mortgage bonds, which realized to the company net \$140,950.00; of this sum, \$10,900.00 was used to redeem from the committee who had sold the property to the company, that amount of debenture bonds which had been received by them as part payment for the property.

Authorized capital stock is 20,000 shares of the par value of \$100.00—\$2,000,000.00. This entire authorization was issued, fully paid, in part payment of property acquired. In September, 1913, \$1,268,300.00 of this stock became delinquent because of failure to meet an assessment of \$5.00 per share, and according to statement of Mr. T. V. Maxwell, secretary of the company, was canceled.

The company has a total authorized bonded indebtedness of \$1,610,000.00, comprised of \$1,000,000.00 twenty-five year 6 per cent first mortgage bonds, and \$610,000.00 twenty-five year 5 per cent unsecured debenture bonds.

The freight traffic of the electric line is very small, representing but 10 per cent of its total revenue. Practically all of this tonnage is to and from San Francisco, being transported between that point and Vallejo by the Monticello Steamship Company. There is a heavy grade of 6.7 per cent encountered at Vallejo, and the freight must all be transferred by truck from car to boat, which involves a very expensive service.

In order to ascertain the actual loss or gain in connection with the freight traffic this Commission had its auditing department make an investigation, with the following result:

Fiscal Year Ending June 30, 1915.

Total revenue received account freight----- \$18,213 04

Cost of Operation.

Taxes:

Total taxes for year, equaled .0512 on total revenue from all sources; .0512 on \$18,213.04 \$932 50

Claims paid:

Account loss of and damage to freight-----	230 25
Trainmen's salaries -----	4,758 30
Employees' insurance -----	290 00
Power -----	3,775 62
Repair of freight cars-----	1,060 86
Depreciation -----	1,200 00
Station and office salaries-----	2,280 00
Maintenance of way-----	8,571 62

Total cost of handling freight----- 23,699 15

Net loss account freight operation----- \$5,486 11

While many of the items of expense are arbitrarily apportioned for the reason that no absolute definite cost could be ascertained, the figures are sufficiently accurate to demonstrate that the freight traffic of the electric line is not being handled at a profit.

The annual reports rendered by the electric line beginning with 1909, show operating deficits in 1909, 1910, 1914, and 1915. During the years 1911, 1912 and 1913, the traffic was handled at a slight operating profit. In June 1913, there occurred a disastrous passenger wreck near Vallejo, and as a result the line showed a deficit of \$127,565.08 in 1914 and \$18,538.29 in 1915. The property has never paid a dividend to its stockholders.

A careful consideration of all the evidence introduced at the hearing and of the exhibits and reports leads me to the conclusion that the applicant should be permitted to change its rules and regulations, cancel the less than carload commodity rates as set forth in the application and

should be authorized to establish the schedule of class rates set forth in Exhibit No. 2, attached hereto, which rates are found to be just and reasonable.

Application No. 1744 of the Southern Pacific Company, hereinafter referred to as the railroad company, is in conformity with those filed by the steamship company and by the electric line and in addition to canceling less than carload commodity rates and increasing certain class rates, authority is sought to increase a number of carload commodity rates applying on dried fruit, grain, cereals, and oil.

To justify the proposed increased rates, the railroad company contends that the current rates are unduly low, unremunerative, and the result of unwise competition. Exhibits were introduced comparing the proposed rates with those prescribed by this Commission in a number of cases, also with rates for like distances in the states of Oregon and Texas, as well as with rates established by the Interstate Commerce Commission in Iowa and Nebraska. The rates proposed are in every instance lower than those shown in the exhibits, but as transportation conditions differ, a careful analysis of each rate adjustment must be made independent of rates prevailing in other parts of the country.

Other exhibits were filed showing that freight trains on the Napa and the Santa Rosa branches can not be employed to their full efficiency because sufficient tonnage does not offer; also that the average cost per ton of handling less than carload freight at the destination stations involved herein is \$1.057; at San Francisco it is .906 cents, to which must be added .05 cents for state toll, making a total terminal expense of \$2.013 per ton on San Francisco traffic. This alleged terminal cost is in many cases greater than the entire revenue collected, thus leaving nothing for other operating expenses.

The showing made, while not absolutely proving present class and less than carload commodity rates to be inadequate for the service performed is sufficient in my opinion to support the conclusion that many of these rates are too low and that the entire schedule should be revised.

The principal witness for the company explained in detail the tonnage and revenue involved in the less than carload commodity rates, and testified to the fact that its competitors, the Northwestern Pacific, Petaluma and Santa Rosa Railway, San Francisco, Napa and Calistoga Railway and the Napa Transportation Company, because of their shorter mileage and quicker service, handled almost all of this traffic. The increased revenue under proposed less than carload commodity rates would only bring to the railroad company approximately \$375.00 per annum.

Santa Rosa Chamber of Commerce protested against the cancellation of any commodity rates applying to Santa Rosa or to points in that

vicinity, and particularly the rates on leather, hides, pelts, wine and grain. No testimony was introduced, but several exhibits were filed giving the tonnage movement of certain commodities. It developed, however, that none of this traffic is carried by the Southern Pacific Company, and protestant's objections were entered to place itself on record should the short line railroads attempt to cancel commodity rates via their rails. It is well to state here that the direct line carriers who now handle this tonnage would be required to make application under section 63 of the Public Utilities Act and completely justify any proposed increases in their rates independent of those in effect via the circuitous route of the Southern Pacific Company.

The Southern Pacific Company was the pioneer road, building into this territory in 1870. It has a circuitous freight route from San Francisco to Santa Rosa of 98 miles via Benicia, Suisun and Napa Junction, as compared with the direct line of 52 miles via the Northwestern Pacific through Tiburon and Petaluma. The mileage of the Southern Pacific to Napa is 69.5 as compared with 44.6 miles via the San Francisco, Napa and Calistoga Railway in connection with the Monticello Steamship Company.

If it were possible to secure actual figures of revenues and expenditures for the Southern Pacific branch lines in Napa and Sonoma counties and treat them as independent properties an annual deficit would probably be shown, but they are feeders for main line traffic and as such are important factors and valuable to the company, which is in good financial condition and as a whole is conducting a profitable business.

There are now five carriers serving this territory whose lines extend to San Francisco—the Southern Pacific Company, the San Francisco, Napa and Calistoga Railway, the Napa Transportation Company, the Northwestern Pacific Railroad Company, and the Petaluma and Santa Rosa Railway Company, the three first mentioned being interested in this proceeding. In addition to the regular boat line, the Napa Transportation Company, many tramp vessels operate to the different bay and river points. Competition between the water carriers and the rail lines and between the rail lines themselves has always been of a substantial nature and this competition is reflected in the rates.

Considering all the facts of record I am of the opinion that the railroad company should be authorized to cancel the less than carload commodity rates. There is but little movement; many of the rates are unremunerative and still others are in violation of the long and short haul provision of the Constitution. I also recommend that applicant be authorized to put into effect the carload commodity rates and the schedule of class rates shown in Exhibit No. 3 attached hereto, which rates are found to be reasonable.

It might be well here to quote decisions of the Interstate Commerce Commission in connection with its investigations covering similar adjustments. "Proposed Advance in Freight Rates," 9 I. C. C. 382—

"It might be manifestly unfair to select a single advantageous line and make that the standard. We have seen that grain can be transported under actual conditions by the Lake Shore and the New York Central railroads from Chicago to New York at a cost less than that by most other routes. It would be hardly just to these other routes to compel the putting in of a rate upon that line which was reasonable with respect to it alone and which had no reference to its competitors. Upon the other hand, it would be equally unfair to the public if the most expensive line were made the standard."

Again in Case No. 879, *City of Spokane vs. Northern Pacific Railway*, 15 I. C. C. 393-394, that Commission said:

"The City of Spokane could not develop if served by the Great Northern Railway alone; nor can we look wholly to the interest of Spokane. The whole territory served by these defendant lines must be considered and the existence of all these railroads to that territory is absolutely essential. These railroads can not exist unless rates are established which will yield a fair return upon their property. We must, therefore, in fixing these rates, have regard not altogether to any one particular railroad, but to the whole situation, and must consider the effect of whatever order we make upon all these defendants. Such was the opinion formerly expressed by this Commission *in re* 'Proposed Advances in Freight Rates,' 9 I. C. C. Rep. 382, and to that opinion we adhere."

The class rates involved in these applications are also included in the so-called Sacramento Valley rate cases Nos. 485, 580 and 686, submitted December 2, 1915, and now awaiting a decision. The findings herein are without prejudice to any findings which may be made respecting future rates in the cases referred to.

I recommend the following order:

ORDER.

The Napa Transportation Company; San Francisco, Napa and Calistoga Railway and the Southern Pacific Company having filed applications for permission to increase certain class and carload commodity rates and to cancel certain less than carload commodity rates, and a hearing having been held and being fully apprised in the premises and basing this order on the findings of fact set out in the opinion hereto,

It is hereby ordered that the Napa Transportation Company be and is hereby authorized to cancel its present freight tariff No. 1-A, C. R. C. No. 2, and to publish in a tariff to become effective within twenty days from the date of this order, the commodity rates set forth in the application and the schedule of class rates set forth in Exhibit No. 1 attached hereto, which rates are found to be just and reasonable.

It is further ordered that the San Francisco, Napa and Calistoga Railway and the Southern Pacific Company be and are hereby authorized to cancel the less than carload commodity rates as set forth in their applications, and to publish in a tariff to become effective within twenty days from the date of this order, the carload commodity rates shown in their applications and the schedule of class rates set forth in Exhibits Nos. 2 and 3 attached hereto, which rates are found to be just and reasonable.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of March, 1916.

EXHIBIT NO. 1.
Local rates—Napa Transportation Company.

Between San Francisco and—	Class rates in cents per 100 pounds									
	1	2	3	4	5	A	B	C	D	E
Winehaven	9	7	7	6	4	4	4	4	3½	3½
Oleum	11	9	8	7	6	6	6	6	5½	5
Vallejo	12	10	8	7	6	6	6	6	5½	5
Mare Island	12	10	8	7	6	6	6	6	5½	5
Napa	15	13	11	10	9	9	8	7	6	5
Between Winehaven and—										
San Francisco	9	7	7	6	4	4	4	4	3½	3½
Oleum	7	6	6	5	4	4	4	4	3½	3½
Vallejo	12	10	8	7	6	6	6	6	5½	5
Mare Island	12	10	8	7	6	6	6	6	5½	5
Napa	15	13	11	10	9	9	8	7	6	5
Between Oleum and—										
San Francisco	11	9	8	7	6	6	6	6	5½	5
Winehaven	7	6	6	5	4	4	4	4	3½	3½
Vallejo	10	9	8	7	6	6	6	6	5½	5
Mare Island	10	9	8	7	6	6	6	6	5½	5
Napa	13	9	8	7	6	6	6	6	5½	5
Between Vallejo and—										
San Francisco	12	10	8	7	6	6	6	6	5½	5
Winehaven	12	10	8	7	6	6	6	6	5½	5
Oleum	10	9	8	7	6	6	6	6	5½	5
Mare Island	10	9	8	7	6	6	6	6	5½	5
Napa	13	9	8	7	6	6	6	6	5½	5
Between Mare Island and—										
San Francisco	12	10	8	7	6	6	6	6	5½	5
Winehaven	12	10	8	7	6	6	6	6	5½	5
Oleum	10	9	8	7	6	6	6	6	5½	5
Vallejo	10	9	8	7	6	6	6	6	5½	5
Napa	13	9	8	7	6	6	6	6	5½	5
Between Napa and—										
San Francisco	15	13	11	10	9	9	8	7	6	5
Winehaven	15	13	11	10	9	9	8	7	6	5
Oleum	13	9	8	7	6	6	6	6	5½	5
Vallejo	13	9	8	7	6	6	6	6	5½	5
Mare Island	13	9	8	7	6	6	6	6	5½	5

EXHIBIT NO. 2.

Local rates—San Francisco, Napa and Calistoga Railway.

Between San Francisco and—	Class rates in cents per 100 pounds									
	1	2	3	4	5	A	B	C	D	E
Floresden	13½	12	10	9	8	8	8	6	5	5
Collins	13½	12	10	9	8	8	8	6	5	5
Napa Junction	13½	12	10	9	8	8	8	6	5	5
Kelly	13½	12	10	9	8	8	8	6	5	5
Asylum	15	13	11	10	9	9	8	7	6	5
Napa	15	13	11	10	9	9	8	7	6	5
Union	15	13	11	10	9	9	8	7	6	5
Oak Knoll	15	14	12	11	10	10	8	7	6	5
Trubody	16	14	12	11	10	10	8	7	6	5

EXHIBIT NO. 3.

Local rates—Southern Pacific Company.

Between San Francisco and—	Class rates in cents per 100 pounds									
	1	2	3	4	5	A	B	C	D	E
Napa Junction	13½	12	10	9	8	8	8	6	5	5
Floresden	13½	12	10	9	8	8	8	6	5	5
South Vallejo	13½	12	10	9	8	8	8	6	5	5
Guthrie	13½	12	10	9	8	8	8	6	5	5
Suscol	13½	12	10	9	8	8	8	6	5	5
Imola	15	13	11	10	9	9	8	7	6	5
Napa	15	13	11	10	9	9	8	7	6	5
Union	15	13	11	10	9	9	8	7	6	5
West Napa	15	13	11	10	9	9	8	7	6	5
Stanley	15	13	11	10	9	9	8	7	6	5
Carneros	15	13	11	10	9	9	8	7	6	5
Oak Knoll	15	14	12	11	10	10	8	7	6	5
Trubody	16	14	12	11	10	10	8	7	6	5
Squab	13½	12	10	9	8	8	8	6	5	5
Buchli	13½	12	10	9	8	8	8	6	5	5
Merazo	15	13	11	10	9	9	8	7	6	5
Ramal	15	13	11	10	9	9	8	7	6	5
Shellville Junction	15	13	11	10	9	9	8	7	6	5
Shellville	15	14	12	11	10	10	8	7	6	5
Between Oakland and—										
Napa Junction	12	11	9	8	7	7	6	5	5	4
Floresden	12	11	9	8	7	7	6	5	5	4
South Vallejo	12	11	9	8	7	7	6	5	5	4
Guthrie	13½	12	10	9	8	8	8	6	5	5
Suscol	13½	12	10	9	8	8	8	6	5	5
Imola	13½	12	10	9	8	8	8	6	5	5
Napa	13½	12	10	9	8	8	8	6	5	5
Union	15	13	11	10	9	9	8	7	6	5
West Napa	15	13	11	10	9	9	8	7	6	5

EXHIBIT NO. 3—Continued.

Local rates—Southern Pacific Company.

Between San Francisco and—	Class rates in cents per 100 pounds									
	1	2	3	4	5	A	B	C	D	E
Stanley -----	13½	12	10	9	8	8	8	6	5	5
Carneros -----	13½	12	10	9	8	8	8	6	5	5
Oak Knoll -----	15	14	12	11	10	10	8	7	6	5
Trubody -----	16	14	12	11	10	10	8	7	6	5
Squab -----	12	11	9	8	7	7	6	5	5	4
Buchli -----	13½	12	10	9	8	8	8	6	5	5
Merazo -----	13½	12	10	9	8	8	8	6	5	5
Ramal -----	13½	12	10	9	8	8	8	6	5	5
Shellville Junction ---	15	13	11	10	9	9	8	7	6	5
Shellville -----	15	14	12	11	10	10	8	7	6	5

DECISION No. 3173.

IN THE MATTER OF THE APPLICATION OF TIDEWATER SOUTHERN RAILWAY COMPANY FOR AUTHORITY TO ISSUE CERTAIN PROMISSORY NOTES AND TO PLEDGE CERTAIN BONDS.

Application No. 2041.

Decided March 22, 1916.

Tidewater Southern Railway Company is authorized to issue \$85,750.00 face value of notes to be sold at par, for the purpose of paying off a like face value of notes, such notes to be renewed if occasion requires, provided that the combined terms of initial issue and renewals shall not exceed one year from December 31, 1916. Applicant also authorized to issue \$14,250.00 face value of 7 per cent promissory notes for additions and betterments, such proposed improvements to be first submitted to and approved by the Commission. Bonds at the ratio of two to one to be pledged as security for the notes above mentioned, provided that should any portion of such notes be paid off, a proportionate amount of bonds shall be returned to applicant's treasury.

Byron A. Bearce, for Applicant.

REPORT OF THE COMMISSION.

This is an application by Tidewater Southern Railway Company for an order authorizing the renewal of certain promissory notes now outstanding, as hereinafter set forth, amounting in all to \$85,750.00, and for authority to issue additional promissory notes not to exceed a total face value of \$14,250.00, making a total note issue of \$100,000.00, and for authority to pledge \$2.00 par value of applicant's bonds as security for each \$1.00 face value of notes so issued or renewed.

A public hearing was held in Stockton on January 27, 1916. From the evidence it appears that in June, 1913, applicant needed about

\$120,000.00 for the completion, including electrification, of that portion of its railway line lying between Stockton and Modesto. Owing to the financial stringency then existing, applicant was unable to raise more than a small portion of this money by the sale of its stock or bonds, and was forced to borrow \$100,000.00 to complete the work. As applicant borrowed this amount upon promissory notes, payable within one year of the respective dates of issue, it did not have to obtain the authorization of this Commission to issue the same, but it did obtain authority from this Commission, by Decision No. 738, dated June 21, 1913 (reported in Volume 2, Opinions and Orders of the Railroad Commission of the State of California, page 1057), to issue \$200,000.00 par value of its bonds, such bonds to be used as collateral security for promissory notes of a total face value of not more than \$100,000.00; it being further provided that not more than \$2.00 par value of applicant's bonds should be used as security for each \$1.00 borrowed upon said notes. By the terms of said decision, it was further provided that the bonds should not be issued later than December 31, 1913.

On June 18, 1914, by Decision No. 1594 (reported in Volume 4, Opinions and Orders of the Railroad Commission of the State of California, page 1272), this Commission authorized Tidewater Southern Railway Company to issue its promissory notes in the aggregate amount of \$100,000.00, to take up outstanding notes secured by the \$200,000.00 face value of bonds pledged as authorized under Decision No. 738, and to issue as collateral security therefor bonds not to exceed the face value of \$2.00 as security for each \$1.00 borrowed, said bonds to be numbered 196 to 395, inclusive, and to be issued on or before June 30, 1915.

At the present time applicant operates an electric railway between Stockton and Modesto, a distance of 33.24 miles, although it might be noted that its articles of incorporation provide that the company may build and operate by steam, electricity, or other lawful motive power, a standard gauge railroad between the following points:

“Commencing at Stockton and running generally in a southeasterly direction through Modesto, Turlock and Fresno, an estimated main line length of 147 miles, and various branches aggregating 80 miles in length.”

In addition to that portion of its line already in operation, the company has practically completed the grading of its roadbed from Modesto to Turlock, a distance of approximately 16 miles. From Turlock 4.49 miles of track have been laid toward Modesto, and 8 miles of its right of way from Turlock southerly to the Merced River have been graded, and applicant has all of the timber necessary for constructing its bridge across the Tuolumne River, and expects to complete

the line from Modesto to Turlock whenever the danger from the competition of automobile busses has been checked.

Applicant's entrance into Stockton is made over the Central California Traction Company's tracks, from Pilgrim street and Weber avenue. Applicant operates over these tracks upon an agreed rental basis, which, according to applicant's testimony, constitutes a disproportionate percentage of its operating expenses. The line from Stockton to Modesto traverses a portion of the San Joaquin Valley noted for its rich and productive soil.

Applicant's line is paralleled on the east by the Santa Fe and on the west by the Southern Pacific, which are on an average about three miles distant; it crosses the South San Joaquin Irrigation District and the Modesto Irrigation District, and the proposed line from Modesto to Turlock will run through the Turlock Irrigation District. This portion of the line, when completed, will tap the most productive district upon applicant's route, so far as freight is concerned.

Applicant's articles of incorporation provide for a total stock issue of \$5,000,000.00, divided into 5,000,000 shares of the par value of \$1.00 each, of which 250,000 shares are preferred stock. Of this amount, applicant, on June 30, 1915, had outstanding \$889,187.00 par value of common stock, and \$42,920.00 par value of preferred stock, in addition to which Stock Certificate No. 1, for \$2,000,000.00 par value of common stock, was issued to Byron A. Bearce, and is endorsed:

"Issued for voting purposes only, not to be transferred, and is to be returned to the treasury on or before July 1, 1919, as provided in agreement dated July 1, 1912, between Byron A. Bearce and Tidewater Southern Railway Company."

On August 7, 1915, applicant levied an assessment of 10 cents per share upon its capital stock, which assessment, by its original terms, was to have become delinquent on October 4, 1915. Owing to extensions granted by applicant, the final sale for the delinquent assessments was not held until November 30, 1915, at which time the company bought back and returned to its treasury 231,545 shares which had been subscribed, but which had never been paid for. Mr. Byron A. Bearce, the company's president and general manager, bought in all the shares of outstanding stock which had actually been issued by the company, and upon which the assessments had become delinquent, amounting to between 75,000 and 80,000 shares. He has allowed the original stockholders to buy back this stock at cost to him, including interest figured at 7 per cent per annum, with the result that all of such stock has been repurchased by its original owners, with the exception of about 20,000 shares. By this assessment the company raised about \$95,000.00, which was used in paying off portions of its floating indebted-

edness, including the \$14,250.00 which was paid upon the \$100,000.00 of notes above mentioned.

Mr. Bearce testified that, in his opinion, applicant would probably have to levy, sooner or later, one more assessment of 10 cents per share.

The preferred stock of Tidewater Southern Railway Company entitles its holders to receive, out of the company's surplus profits, dividends at the rate of 6 per cent per annum, and no more. The dividends are non-cumulative, but the preferred stockholders have a preference as to the company's assets, as well as to dividends.

Tidewater Southern Railway Company has provided for a bond issue of \$4,000,000.00, of which this Commission has authorized the issue of \$750,000.00 par value. Under said authorization, bonds of the par value of \$378,500.00 have been sold, which netted applicant a total of \$307,883.20; and additional bonds of the par value of \$200,000.00 have been pledged, in pursuance of the authority of this Commission, as above set forth.

Applicant's entire bond issue is secured by a deed of trust executed to Union Trust Company of San Francisco. The lien of the deed of trust covers all the property of the company at the date of its execution, and all property thereafter acquired, with the exceptions hereinafter noted.

The bonds are dated April 15, 1912, and mature April 15, 1942. Bonds numbered 1 to 2000, inclusive, are of the denomination of \$1,000.00, and bonds numbered 2001 to 6000 are of the denomination of \$500.00. Bonds bear 5 per cent interest per annum, payable semi-annually. Under the terms of the deed of trust, the trustee may deliver bonds in the following amounts and for the following purposes:

A. \$500,000.00 face value of bonds may be delivered to the company for the purpose of paying in part for the construction of a line of railway from Stockton, San Joaquin County, to Modesto, Stanislaus County.

B. \$400,000.00 face value of bonds may be delivered to the company after the completion of the line of railway from Stockton to Modesto, for the purpose of constructing a line of railway from Modesto to Turlock, Stanislaus County.

C. \$650,000.00 face value of bonds may be delivered to the company after the construction of the line of railway from Modesto to Turlock, for the purpose of constructing a line of railway from Turlock to Merced, Merced County.

D. \$700,000.00 face value of bonds may be delivered to the company after the construction of the line of railway from Turlock to Modesto, for the purpose of constructing a line of railway from Merced to Madera, Madera County.

E. \$600,000.00 face value of bonds may be delivered to the company after the construction of the line of railway from Merced to Madera, for the purpose of constructing a line of railway from Madera to Fresno, Fresno County.

The remaining \$1,150,000.00 face value of bonds may be issued at the rate of not more than \$20,000.00 per mile, to pay for the cost of constructing various branches and spurs.

The trustee is prohibited from delivering any bonds to the company or its order unless the company has first obtained an order authorizing the issue of the bonds from the Railroad Commission.

Under the terms of the deed of trust, the trustee may declare the principal of the bonds due in the event that the company fails to pay bond interest within six months after the same becomes due, or fails to comply with any of the covenants within six months after written notice from the trustee. The holders of a majority of the face value of the outstanding bonds may waive default. The trustee is under no obligation to take notice of any default unless notified in writing by the holders of 10 per cent of the face value of bonds outstanding, nor does the trustee need to take any action involving any expense unless requested in writing by the holders of not less than a majority of the face value of the bonds secured and outstanding, and tendered a reasonable indemnity.

The deed of trust requires the company to pay to the trustee, for sinking fund purposes, the following amounts:

On October 15, 1916, and annually thereafter to October 15, 1921, an amount equivalent to 2 per cent of the face value of the bonds outstanding.

On October 15, 1922, and annually thereafter to October 15, 1941, an amount equivalent to 3 per cent of the face value of the bonds outstanding.

The moneys paid into the sinking fund may be used to pay interest arrears, or to retire bonds at not more than 103, or may be invested in securities which are lawful investments under the laws of California for savings banks.

The bonds redeemed by the company through its sinking fund are to be kept alive and the interest accretions added to the sinking fund.

The company may redeem any of its bonds upon any interest payment date, at not more than 103.

The deed of trust permits the company to sell real property not necessary for right of way or station grounds, free of any lien. Provision is also made whereby the property subject to the mortgage or deed of trust may be released. In such event, the proceeds obtained from the sale of property must be expended to acquire new property.

In reference to the value of applicant's property, we need merely refer to Case No. 584, which was brought on the Commission's own initiative for the purpose of ascertaining and reporting the various elements entering into the value of applicant's property, and which was determined by Decision No. 3138 of this Commission on March 3, 1916.

Applicant has reported operating revenues and expenses to this Commission, for the last three fiscal years ending June 30th, as follows:

Item	1915	1914	1913
Operating revenues -----	\$85,818 07	\$65,905 89	\$27,052 44
Operating expenses -----	73,141 02	58,326 45	19,745 32
Net revenue -----	\$12,677 05	\$7,579 44	\$7,307 12
Non-operating income -----	57 82		
Operating income -----	\$12,734 87	\$7,579 44	\$7,307 12
Deductions from income—			
Miscellaneous rents -----			
Taxes -----	\$3,191 68	\$1,002 26	\$752 43
Interest on funded debt -----	16,502 19	12,323 99	6,128 30
Interest on unfunded debt -----	5 47		
Amortization of debt discount -----	2,814 31		
Total deductions -----	\$22,513 65	\$13,326 25	\$6,880 73
Net income or loss -----	*\$9,778 78	*\$5,746 81	\$426 39

*Loss.

Mr. Bearce further testified that he had made a careful estimate of the amount of revenue which applicant had lost through the competition of the so-called "jitney busses" operating between Stockton and Modesto.

Applicant is operating between Stockton and Modesto eight trains or cars per day each way, maintaining a two-hour schedule, while the Southern Pacific trains have been running upon a four-hour schedule, and consume from 15 to 35 minutes more in making the trip than do applicant's trains. Applicant claims that as a result of its superior service, it was, prior to the advent of the automobile busses, carrying between 90 per cent and 95 per cent of all the passenger traffic between these two points, and that it is still carrying this percentage of all passengers traveling by rail. Its passenger revenue from through business, however, formerly amounted to about 80 per cent of its total passenger revenue, while now it amounts to only 50 per cent of the total, and according to Mr. Bearce's computations, from a count of the number of passengers carried by the automobiles, his company lost between \$35,000.00 and \$45,000.00 of revenue from this competition during the year 1915. While this estimate may be somewhat excessive, when we consider the fact that at one time during the summer as many as twenty-four automobile busses were operating between these two cities, carrying passengers at less than regular railroad fare of 80 cents, and at times reducing the fare as low as 50 cents, it seems probable that if the company had not been subjected to this competition last year, it would have received enough revenue to have covered

all of its maintenance and operating expenses, taxes, bond interest and interest upon its floating indebtedness, and still have shown a surplus at the end of the year, instead of a considerable deficit.

Mr. Bearce further testified that all of the "jitney bus" operators were losing money and that, on an average, the individual operator continued in business for not more than three months; that not one of the original operators was still in business, but that new ones were continually entering the field upon the expectation that they could make money where the others had failed and that, so far as he could foresee, this competition would continue indefinitely unless checked by legislation. The county has passed an ordinance imposing numerous regulations and restrictions upon these automobile busses, and imposing a tax upon their gross receipts equal to the tax imposed by the State upon applicant's gross receipts, which ordinance will probably be submitted to a vote of the people by referendum.

During 1914, approximately 54.6 per cent of applicant's operating revenue was obtained from passenger traffic, while during 1915 the passenger traffic was 62 per cent of the total.

Applicant now has outstanding the following promissory notes, secured by bonds as above set forth:

Date	Payee	Secured by bonds	Face value, bonds	Face value, note	Date of maturity	Rate of interest, per cent.
Aug. 2, '14	San Joaquin Valley Bank.	201-250	\$50,000	\$25,000	Aug. 2, '15	7
Aug. 7, '13	Calaveras County Bank.	251-260	10,000	5,000	Aug. 7, '14	7
Aug. 5, '14	Stockton Investment Co.	261-270	10,000	5,000	Aug. 5, '15	7
Sept. 23, '14	First Nat. Bank, Stockton	271-280	10,000	5,000	Mar. 23, '15	7
Sept. 24, '14	First Nat. Bank, Stockton	281-290	10,000	5,000	Mar. 23, '15	7
Aug. 31, '14	Stockton Savings and Loan Society	291-310	50,000	25,000	Aug. 31, '15	7
Dec. 30, '14	Victor N. Walsh	341-346	6,000	3,000	Dec. 30, '15	7
Aug. 8, '13	Union Safe Deposit	361-367	7,000	1,750	Aug. 8, '14	7
Dec. 24, '14	Farmers and Merchants' Bank	368-377	10,000	5,000	Dec. 24, '15	7
Jan. 5, '15	Eatin & Bickley	378-384	7,000	3,500	Jan. 5, '16	7
Jan. 9, '15	Grace Vanderburg	390-395	6,000	2,500	Bal. Jan. 9, '16	7
	Totals		\$176,000	\$85,750		

From the foregoing table it will be noted that some of the notes are secured by bonds in excess of \$2.00 face value for each \$1.00 of notes, which condition has resulted from the fact that part payments have been made upon certain of the notes, upon which some of the collateral has been returned. We feel that this condition should not be permitted

to arise in the future, and, accordingly, we shall provide in our order that when partial payment shall be made upon any of the notes herein authorized, the collateral shall be returned, at the ratio of \$2.00 par value of bonds for each \$1.00 of part payment.

It will be seen from the above table that of the original \$100,000.00 of notes authorized, as above set forth, only \$85,750.00 face value of notes are now outstanding. At the hearing it appeared that applicant issued the entire \$100,000.00 of notes, but had subsequently paid off \$14,250.00 of this indebtedness. Under this application, however, the company wishes permission to issue a total of \$100,000.00 of notes, devoting \$85,750.00 to renewing its present notes, and the remaining \$14,250.00 to construction work. We feel that applicant should be authorized to issue notes to the amount of \$85,750.00, for the purposes of renewing or refunding the notes above set forth, and we further feel that applicant should be authorized to issue additional promissory notes of a total face value not exceeding \$14,250.00, and to pledge its bonds as collateral therefor, for the acquisition of operative property and for the construction, extension, and improvement of its facilities, upon the condition that before issuing any portion of said \$14,250.00 face value of notes, it shall notify this Commission in detail the purposes to which it wishes to devote the proceeds of said notes, and shall obtain from this Commission a supplemental order approving the expenditures.

ORDER.

Tidewater Southern Railway Company having applied to this Commission for an order authorizing the issue of \$85,750.00 face value of promissory notes, for the purpose of renewing or refunding the notes hereinafter set forth in this order, and for authority to issue additional promissory notes not to exceed a total face value of \$14,250.00, and for authority to pledge certain bonds as security therefor; and a public hearing having been held on said application, and the Railroad Commission finding that the purposes for which said notes or the proceeds thereof are to be used are not in whole or in part reasonably chargeable to operating expenses or to income, and that the application should be granted, subject to the conditions hereinafter specified,

It is hereby ordered that Tidewater Southern Railway Company be and the same is hereby authorized to issue its promissory notes, bearing interest at not to exceed 7 per cent per annum, in the total sum of

\$85,750.00, for the purpose of renewing or refunding the following notes:

Date	Payee	Secured by bonds	Face value, bonds	Face value, note	Date of maturity	Rate of interest, per cent.
Aug. 2, '14	San Joaquin Valley Bank	201-250	\$50,000	\$25,000	Aug. 2, '15	7
Aug. 7, '13	Calaveras County Bank	251-260	10,000	5,000	Aug. 7, '14	7
Aug. 5, '14	Stockton Investment Co.	261-270	10,000	5,000	Aug. 5, '15	7
Sept. 23, '14	First Nat. Bank, Stockton	271-280	10,000	5,000	Mar. 23, '15	7
Sept. 24, '14	First Nat. Bank, Stockton	281-290	10,000	5,000	Mar. 23, '15	7
Aug. 31, '14	Stockton Savings and Loan Society	291-340	50,000	25,000	Aug. 31, '15	7
Dec. 30, '14	Victor N. Walsh	341-346	6,000	3,000	Dec. 30, '15	7
Aug. 8, '13	Union Safe Deposit	361-367	7,000	1,750	Aug. 8, '14	7
Dec. 24, '14	Farmers and Merchants' Bank	368-377	10,000	5,000	Dec. 24, '15	7
Jan. 5, '15	Eatin & Bickley	378-384	7,000	3,500	Jan. 5, '16	7
Jan. 9, '15	Grace Vanderburg	390-395	6,000	2,500	Jan. 9, '16	7
	Totals		\$176,000	\$85,750		

And it is hereby further ordered that Tidewater Southern Railway Company be and the same is hereby authorized to issue additional promissory notes not exceeding the total face value of \$14,250.00, bearing interest at the rate of 7 per cent per annum.

And it is hereby further ordered that said Tidewater Southern Railway Company be and the same is hereby authorized to issue and pledge as collateral security therefor, its bonds numbered 196 to 395, inclusive, not to exceed \$2.00 face value of bonds as security for each \$1.00 face value of notes so issued.

The authority herein granted is granted upon the following conditions, and not otherwise:

1. Tidewater Southern Railway Company shall issue said notes so as to net not less than the face value thereof.
2. Upon payment of any portion of the principal of any note or notes herein authorized, the payee or payees shall return to applicant \$2.00 face value of the bonds pledged as collateral for each \$1.00 so paid upon the principal of such note or notes.
3. Tidewater Southern Railway Company is hereby authorized, during the period of one year from the date of this order, to issue further notes in renewal of those herein authorized, on the same terms, and to pledge as collateral security therefor said bonds of the face value of \$2.00 for each \$1.00 face value of notes so secured, provided that the combined terms of the notes hereby authorized and those issued in

renewal thereof, respectively, shall not exceed one year from December 31, 1916.

4. None of said \$14,250.00 face value of notes above mentioned in this order shall be issued until applicant shall have submitted to this Commission a detailed statement of the purposes to which the proceeds of said proposed notes shall be applied, and shall have obtained a supplemental order from this Commission approving the issue of said notes for said purposes.

5. Tidewater Southern Railway Company shall keep a true and accurate record of the issue of the notes herein authorized, and shall, on or before the twenty-fifth day of the month following the issue of the respective notes, make a verified report to this Commission, setting forth the notes herein authorized, the fact and the date of issue, the face value of the respective notes, the rate of interest, and the application of the proceeds, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

6. When the bonds herein authorized to be pledged are returned to applicant's treasury, they shall not again be issued unless this Commission's consent shall first have been secured.

7. This order shall not become effective until Tidewater Southern Railway Company shall have paid the fee specified in section 57, as amended, of the Public Utilities Act.

Dated at San Francisco, California, this 22d day of March, 1916.

DECISION No. 3174.

IN THE MATTER OF THE APPLICATION OF VALLEY TELEPHONE COMPANY FOR AUTHORITY TO ISSUE STOCK AND TO REFUND CERTAIN OBLIGATIONS.

Application No. 1849.

Decided March 22, 1916.

Applicant applies for permission to issue 40 shares of stock of the par value of \$100.00 per share and to renew two promissory notes aggregating the total sum of \$2,500.00. Of the stock, 10 shares are for extensions, the balance in lieu of shares heretofore issued without the Commission's authorization. It appears that applicant has also issued 106 additional shares of stock subsequent to the effective date of the Public Utilities Act. This stock, it contends, was subscribed for prior to such effective date and accordingly did not need authorization for its issuance.

Held, That stock subscribed for but not issued prior to the effective date of the Public Utilities Act is subject to the jurisdiction of this Commission, and as such, an authorization is required to validate its issuance. Applicant authorized

to issue 206 shares of stock, 10 shares for extensions and 196 shares in lieu of stock illegally issued, also to issue in renewal two promissory notes of the aggregate face value of \$2,500.00, bearing interest at 10 per cent; such notes to be issued for a period of not to exceed eighteen months.

Haines & Haines, by A. Haines, for Applicant.

REPORT OF THE COMMISSION.

This is an application of Valley Telephone Company, operating in Imperial Valley, Imperial County, for authority to issue 40 shares of stock and to renew two promissory notes in the total principal sum of \$2,500.00.

Applicant was incorporated under the laws of the State of California on March 2, 1912. Its authorized capital stock is fixed at \$25,000.00, being 250 shares of the par value of \$100.00 per share. Of this amount 196 shares are now reported as outstanding.

About the time of its incorporation, applicant acquired the telephone properties of East Side Telephone Company for 94 shares of stock, and of Water Company No. 7 for 72 shares of stock. It is alleged that the 166 shares of stock so issued were subscribed for prior to March 23, 1912, the effective date of the Public Utilities Act. It is of record, however, that the certificates for said stock were not written out and delivered until April 10, 1912.

In addition to the above stock, applicant has issued a total of 30 shares at various dates from September 5, 1912, to December 15, 1914, without authority from the Commission. In its application the company asks for authority to issue new certificates in lieu of these 30 shares which were illegally issued. As regards the 166 shares of stock subscribed for prior to March 23, 1912, but actually issued on April 10, 1912, applicant takes the position that the Commission's authorization is not necessary, as the rights and liabilities of these stockholders became vested prior to the effective date of the Public Utilities Act. In support of its contention, applicant has submitted a brief citing a number of points and authorities. These authorities do not, however, in our opinion, preclude the application of section 52 of the Public Utilities Act, which requires that no stock or stock certificate shall be issued by a public utility without the authorization of the Commission. The mere fact that a person has subscribed for stock prior to the effective date of the Public Utilities Act, does not, by this fact alone, entitle him to a stock certificate without the authorization of the Commission. As the issue of 166 shares by Valley Telephone Company was made subsequent to the effective date of the Public Utilities Act, we are of the opinion that such issue of stock certificates was void. We shall recommend, however, that applicant be allowed to issue 166 shares of stock in lieu of the stock issued without the Commission's consent.

Applicant has also asked for authority to issue 10 shares of stock to be sold from time to time to parties living off the present lines who desire service. It has been the company's custom to construct lines for such parties provided they become stockholders.

In addition to requesting authority to issue stock, applicant desires to renew two notes for a period or periods not exceeding eighteen months in the aggregate.

These notes are as follows:

One note in the principal sum of \$1,500.00, dated February 19, 1915, due August 19, 1915, payable to Farmers and Merchants Bank of Imperial, and bearing interest at the rate of 10 per cent per annum.

One note in the principal sum of \$1,000.00, dated January 8, 1915, due July 8, 1915, payable to Farmers and Merchants Bank of Imperial, bearing interest at the rate of 10 per cent per annum.

Applicant states that the proceeds from these notes were used in extensions and improvements to its system.

In connection with this application the engineering department of the Commission has made a valuation of applicant's property, in which it finds a reproduction cost, less depreciation, of \$25,028.64.

After a consideration of the evidence submitted by applicant, we are of the opinion that its application should be granted to the extent hereinafter set forth.

ORDER.

Valley Telephone Company having applied to this Commission for authority to issue 40 shares of stock of the par value of \$100.00 per share, and to issue two promissory notes in the total principal sum of \$2,500.00, as hereinbefore set forth, and a hearing having been held, and it appearing to this Commission that applicant's request is reasonable and should be granted, and that the purposes for which it is proposed to issue said stock and notes are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Valley Telephone Company be and it is hereby authorized to issue 206 shares of stock of the par value of \$100.00 per share.

It is hereby further ordered that Valley Telephone Company be and it is hereby authorized to issue a promissory note in the principal sum of \$1,500.00, bearing interest at not to exceed 10 per cent per annum, to renew a similar note dated February 19, 1915, due August 19, 1915, and payable to Farmers and Merchants Bank of Imperial.

It is hereby further ordered that Valley Telephone Company be and it is hereby authorized to issue a promissory note in the principal sum

of \$1,000.00, bearing interest at not to exceed 10 per cent per annum, to renew a similar note dated January 8, 1915, due July 8, 1915, and payable to Farmers and Merchants Bank of Imperial.

The authority herein granted Valley Telephone Company to issue stock and to issue notes, is granted upon the following conditions, and not otherwise:

1. The stock herein authorized to be issued shall be issued for the following purposes only:

(a) One hundred and ninety-six (196) shares to be issued in lieu of a like number of shares issued without authority from this Commission.

(b) Ten (10) shares to be sold to subscribers and the proceeds used in construction of extensions to applicant's system.

2. The stock herein authorized to be sold for cash shall be issued so as to net applicant not less than its par value of \$100.00 per share.

3. When the 196 shares of stock heretofore issued without the consent of this Commission have been retired, they shall be returned to applicant's treasury and cancelled.

4. The notes herein authorized to be issued may be issued for a term not exceeding eighteen months. If applicant so desires, it may issue either or both of said notes for a term less than eighteen months and renew said notes from time to time, provided that the combined periods of any notes so issued and its renewals are not in excess of eighteen months.

5. Valley Telephone Company shall keep separate, true, and accurate accounts, showing the receipt and application in detail of the proceeds of the sale of the stock and notes herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission, stating the sale or sales of said stock and notes during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

6. The authority herein granted applicant to issue notes shall not become effective until applicant shall have paid the fee prescribed by the Public Utilities Act, as amended.

7. The authority herein granted shall apply only to such stock or notes issued on or before December 31, 1916.

Dated at San Francisco, California, this 22d day of March, 1916.

DECISION No. 3175.

JOSEPH W. EBERSOL, B. B. PADDOCK, AND S. F. OWEN

vs.

PACIFIC ELECTRIC RAILWAY COMPANY.

Case No. 865.*Decided March 22, 1916.*

REPORT OF THE COMMISSION.**ORDER OF DISMISSAL.**

It appearing that the complaint entitled as above has been satisfied, and defendants having requested dismissal of the same,

It is hereby ordered that this action be and the same is hereby dismissed.

Dated at San Francisco, California, this 22d day of March, 1916.

Decision No. 3176, grade crossing; not printed. See end of volume.

DECISION No. 3177.

SAN FRANCISCO ARTICHOKE GROWERS ASSOCIATION

vs.

OCEAN SHORE RAILROAD COMPANY.

Case No. 838.*Decided March 22, 1916.*

REPORT OF THE COMMISSION.**ORDER DISMISSING SUPPLEMENTAL APPLICATION.**

Complainant having on March 17, 1916, made written request to this Commission that the complaint in the above entitled proceeding be dismissed,

It is hereby ordered that the complainant's proceeding be and it is hereby dismissed.

Dated at San Francisco, California, this 22d day of March, 1916.

DECISION No. 3178.

IN THE MATTER OF THE APPLICATION OF CAMPBELL WATER
COMPANY FOR PERMISSION TO INCREASE RATES.

Application No. 1908.

Decided March 22, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Applicant having made written request, March 21, 1916, that the above entitled proceeding be dismissed,

It is hereby ordered that the same be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this 22d day of March, 1916.

DECISION No. 3179.

IN THE MATTER OF THE APPLICATION OF SUTTER-BUTTE CANAL
COMPANY FOR AN ORDER AUTHORIZING IT TO ISSUE AND
DELIVER CERTAIN OF ITS BONDS.

Application No. 239.

Decided March 22, 1916.

Applicant granted an extension of time to and including March 18, 1918, in which to issue \$52,000.00 face value of bonds heretofore authorized, and is also granted permission to issue an additional \$1,000.00 face value of bonds to retire underlying bonds of the Butte County Canal Company, and to use \$8,000.00 face value of the bonds authorized for meeting sinking fund payments.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

FIRST SUPPLEMENTAL ORDER.

Whereas this Commission in an order, dated October 23, 1912, Decision No. 299 (Volume 1, Opinions and Orders of the Railroad Commission of California, page 803), authorized the applicant herein to issue, prior to June 30, 1913, \$52,000.00 face value of its first mortgage 6 per cent sinking fund twenty-year gold bonds, for the purpose of retiring \$52,500.00 face value of first mortgage 5 per cent sinking fund twenty-five-year gold bonds of Butte County Canal Company; and

Whereas applicant has now applied to this Commission for an extension of time within which to issue said bonds; and

Whereas applicant has now applied to this Commission for an amendment to said Decision No. 299, dated October 23, 1912, which will permit it to issue \$53,000.00 face value of its first mortgage 6 per cent sinking fund twenty-year gold bonds, instead of \$52,000.00 face value of said bonds as provided in the Commission's original order; and

Whereas applicant has also applied for authority to use \$8,000.00 face value of the bonds heretofore authorized, in meeting the sinking fund payment due March 1, 1916, under its trust indenture to First Federal Trust Company of San Francisco;

And a hearing having been held, and it appearing to this Commission that applicant's request is reasonable and should be granted, and that the purposes for which it is proposed to issue said bonds are not reasonably chargeable in whole or in part to operating expenses or to income,

It is hereby ordered that the applicant herein be and it is hereby granted an extension of time, to and including March 15, 1918, within which to issue \$52,000.00 face value of its first mortgage 6 per cent sinking fund twenty-year gold bonds, as authorized by this Commission's Decision No. 299, dated October 23, 1912.

It is hereby further ordered that said Decision No. 299 be and it is hereby amended to allow applicant herein to issue at any time prior to March 15, 1918, \$1,000.00 face value of its first mortgage 6 per cent sinking fund twenty-year gold bonds, in addition to the \$52,000.00 face value of said bonds heretofore authorized, and to use said \$1,000.00 face value of bonds in retiring underlying bonds of Butte County Canal Company, in accordance with the terms set forth in the original order herein.

It is hereby further ordered that said Decision No. 299 be and it is hereby amended to allow applicant to use \$8,000.00 face value of its bonds in meeting the sinking fund payment due March 1, 1916, under its trust indenture to First Federal Trust Company of San Francisco.

Except as modified by this first supplemental order, the Commission's original order herein, Decision No. 299, dated October 23, 1912, shall remain in full force and effect.

Dated at San Francisco, California, this 22d day of March, 1916.

DECISION No. 3180.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA, ARIZONA AND SANTA FE RAILWAY COMPANY AND LATON AND WESTERN RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE FORMER TO PURCHASE FROM THE LATTER ALL OF THE LATTER'S OUTSTANDING CAPITAL STOCK.

Application No. 2142.

Decided March 22, 1916.

California, Arizona and Santa Fe Railway Company, at present holding \$178,000.00 face value of bonds out of an issue of \$200,000.00 of the Laton and Western Railroad, applies jointly with the latter named road for permission to purchase its stock issue of \$300,000.00 par value, for the nominal sum of \$1.00. Application granted, provided that such transfer shall not take place until all outstanding indebtedness, other than bonds held by the purchaser, shall have been canceled or assumed.

M. W. Reed, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This is an application of California, Arizona and Santa Fe Railway Company for authority to purchase the entire capital stock of Laton and Western Railroad Company.

Laton and Western Railroad Company was incorporated on August 8, 1910, under the laws of the State of California. It has a total issue of capital stock amounting to \$300,000.00, all of which is outstanding. Its line of railroad, which was originally constructed for the purpose of opening for settlement the Laguna de Tache Ranch, leaves The Atchison, Topeka and Santa Fe Railway Company's main line between San Francisco and Los Angeles at the town of Laton, Fresno County, and runs in a general westerly direction to the town of Lanare, Fresno County, a distance of approximately twenty miles. The road was placed in service on February 22, 1911.

The company has no equipment, and since its completion has been operated under lease by The Atchison, Topeka and Santa Fe Railway Company, which lease has been heretofore approved by this Commission. This lease provides that all expenses for upkeep and operation shall be borne by The Atchison, Topeka and Santa Fe Railway. It further stipulates that The Atchison, Topeka and Santa Fe Railway shall pay no rental to Laton and Western Railroad Company, and that Laton and Western Railroad Company shall in turn be under no obligation to pay interest on the bonds held by The Atchison, Topeka and Santa Fe Railway Company.

Laton and Western Railroad Company has issued \$200,000.00 face value of bonds, dated January 11, 1911, maturing January 1, 1941, and bearing interest at 5 per cent per annum. Of these bonds, \$178,000.00 face value have been issued and delivered to The Atchison, Topeka and Santa Fe Railway Company in payment for work and material furnished by the latter company in the construction of Laton and Western Railroad Company's line.

The lease to The Atchison, Topeka and Santa Fe Railway Company expired on March 21, 1916, and as Laton and Western Railroad Company has neither the equipment or funds with which to operate the property, it is proposed by its shareholders to sell the stock to the California, Arizona and Santa Fe Railway Company. The consideration named in the application is \$1.00.

The California, Arizona and Santa Fe Railway Company is a subsidiary of The Atchison, Topeka and Santa Fe Railway Company, all of its capital stock, except sufficient shares to qualify directors, being owned by The Atchison, Topeka and Santa Fe Railway Company. If the transfer of property above set forth is approved by the Commission, the California, Arizona and Santa Fe Railway Company plans to lease Laton and Western Railroad Company's line to The Atchison, Topeka and Santa Fe Railway Company.

At the hearing witness for The Atchison, Topeka and Santa Fe Railway Company testified that if this plan is carried out it is the intention of The Atchison, Topeka and Santa Fe Railway Company to furnish adequate and sufficient service for both freight and passengers.

It was further stated that before the transfer takes place all of the debts of Laton and Western Railroad Company, with the exception of the bond issue, will be assumed by the present stockholders of Laton and Western Railroad Company.

As regards the bond issue, it is apparent that if all of the capital stock of Laton and Western Railroad Company, and all of the bonds, are owned by either The Atchison, Topeka and Santa Fe Railway Company or its subsidiary, the California, Arizona and Santa Fe Railway Company, that the bonded indebtedness of Laton and Western Railroad Company will be virtually canceled.

I am of the opinion that the transfer of this property will result ultimately in better service and facilities for the public, and that the application herein should be granted.

I submit the following form of order:

ORDER.

The California, Arizona and Santa Fe Railway Company having applied to this Commission for authority to purchase the entire outstanding capital stock of Laton and Western Railroad Company, and

it appearing to the Commission that public convenience will be served by the granting of this application,

It is hereby ordered that the California, Arizona and Santa Fe Railway Company be and it hereby authorized to purchase \$300,000.00 par value of capital stock of Laton and Western Railroad Company.

The order herein made is made upon the following conditions, and not otherwise:

1. When the transfer of stock herein authorized shall have been completed, applicant shall file with this Commission a copy of the contract of sale.

2. The stock of Laton and Western Railroad Company herein authorized to be transferred shall be acquired by the California, Arizona and Santa Fe Railway Company only after arrangements have been completed with the sellers of said stock for the payment or assumption of all indebtedness which may be outstanding upon the properties of Laton and Western Railroad Company, except the \$178,000.00 of bonds of Laton and Western Railroad Company which are now outstanding.

3. The authority herein granted to transfer property shall apply only to such transfer of property as shall have taken place on or before January 1, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission.

Dated at San Francisco, California, this 22d day of March, 1916.

Decision No. 3181, grade crossing; not printed. See end of volume.

DECISION No. 3182.

IN THE MATTER OF THE APPLICATION OF LATON AND WESTERN RAILROAD COMPANY AND THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY FOR APPROVAL OF LEASE.

Application No. 2094.

Decided March 22, 1916.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

This Commission having, on February 25, 1916, made an order approving a certain lease described in said order and under the terms of which The Atchison, Topeka and Santa Fe Railway Company agrees that it will for a period of thirty days, beginning February 22, 1916, operate the line of railroad owned by Laton and Western Railroad Company under certain conditions specified in the agreement, and applicants having asked for the approval of the Commission to an extension of the

term of said lease to and including April 25, 1916, and it appearing to the Commission that such request is reasonable and should be granted,

It is hereby ordered that this Commission does hereby give its approval to an extension to and including April 25, 1916, of the term of the lease of the line of Laton and Western Railroad Company by The Atchison, Topeka and Santa Fe Railway Company referred to above.

Dated at San Francisco, California, this 22d day of March, 1916.

DECISION No. 3183.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF TWO HUNDRED SIXTY-SIX THOUSAND DOLLARS, AND NOTES OF THE FACE VALUE OF THIRTY-THREE THOUSAND DOLLARS.

Application No. 1731.

Decided March 25, 1916.

REPORT OF THE COMMISSION.

TENTH SUPPLEMENTAL ORDER.

Whereas this Commission by Decision No. 2726, dated August 31, 1915, authorized the delivery to Western States Gas and Electric Company of \$182,000.00 face value of bonds, the issue of which was authorized by Decision No. 2550, dated June 30, 1915, provided that said Western States Gas and Electric Company deposit with the trustee, Girard Trust Company, the sum of \$182,000.00 in cash, said \$182,000.00 so deposited with the trustee to be withdrawn by applicant herein from time to time in accordance with the order of this Commission permitting the withdrawal; and

Whereas applicant herein has heretofore been authorized to withdraw from said Girard Trust Company the sum of \$153,951.90, leaving on deposit the sum of \$28,048.10; and

Whereas applicant on March 22, 1916, filed a statement showing that it has expended from February 1, 1916, to February 29, 1916, both dates inclusive, the sum of \$9,714.47 for extensions, additions, and betterments to its plant; and

Whereas applicant asks for authority to withdraw from the aforesaid fund of \$28,048.10; remaining on deposit with the trustee the sum of \$9,714.47; and good cause appearing,

It is hereby ordered that Western States Gas and Electric Company be given authority and it is hereby given authority to withdraw from Girard Trust Company the sum of \$9,714.47, being a portion of the fund

deposited with the trustee in accordance with Decision No. 2726, dated August 31, 1915, of the Railroad Commission of the State of California.

It is hereby further ordered that Decision No. 2550, dated June 30, 1915, as amended by supplemental orders thereto, shall remain in full force and effect, except as it may be modified by this tenth supplemental order.

Dated at San Francisco, California, this 25th day of March, 1916.

Decision No. 3184, grade crossing; not printed. See end of volume.

DECISION No. 3185.

CITY OF ALAMEDA

vs.

PEOPLES WATER COMPANY.

Case No. 617.

Decided March 25, 1916.

REPORT OF THE COMMISSION.

ORDER DENYING APPLICATION FOR REHEARING.

City of Alameda having on March 13, 1916, filed with this Commission an application for rehearing in this proceeding, and the Commission, after careful consideration, being of the opinion that there is no merit in said application for rehearing,

It is hereby ordered that said application for rehearing be and the same is hereby denied.

Dated at San Francisco, California, this 25th day of March, 1916.

DECISION No. 3186.

IN THE MATTER OF THE APPLICATION OF CITY OF SAN FERNANDO FOR PERMISSION TO CONSTRUCT McFARLAND STREET AT GRADE OVER THE TRACKS OF SOUTHERN PACIFIC COMPANY IN THE CITY OF SAN FERNANDO, LOS ANGELES COUNTY, CALIFORNIA.

Application No. 2051.

Decided March 25, 1916.

Applicant was heretofore granted permission to construct Jessie street across the tracks of Southern Pacific Company, and it now appearing that the construction of McFarland street at grade across the tracks of the railroad company named would be far more convenient and suitable to the needs of the residents of this district, authorization to construct Jessie street is revoked and applicant granted permission to open McFarland street at grade, such crossing to be protected by an automatic flagman

Frederick Baker, for Applicant.

Geo. D. Squires, for Southern Pacific Company.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

This application is an outgrowth of Application 1975, which was decided by the Commission on December 30, 1915 (Decision No. 3012). In that application the City of San Fernando applied to the Commission for permission to construct Jessie street at grade across the Southern Pacific tracks. The present application looks to the opening of McFarland street, a parallel street north of Jessie street, and it was filed with the Commission on January 19, 1916.

The Commission's opinion in Application 1975, described the location of both Jessie and McFarland streets, as well as the other streets in this vicinity, in their relation to each other and the tracks of the railroad company, and I shall not repeat that description in this opinion.

At the hearing held on Application 1975 the question of opening McFarland street was touched upon but was not considered, as no application was before the Commission for a crossing there at that time. It was made apparent then, however, and was so stated in the opinion covering the Jessie street application, that while it was reasonable to open a new crossing in this vicinity it did not appear that two crossings were required by public convenience so close together as are Jessie and McFarland streets. At the hearing held on the present application no evidence was introduced which convinced me that this opinion was in error.

The Jessie street crossing has not yet been constructed, and the right was reserved in that order, as in all similar orders, to revoke the permission granted if public convenience required it. We are, therefore, in the position of being called upon to decide which of the two proposed crossings, McFarland street or Jessie street, will the better serve public convenience, when the hazard is also considered.

I am satisfied that McFarland street is the street which should be opened. If it is protected as it was proposed to protect Jessie street, that is, by an automatic flagman, I am convinced that it will be as safe a crossing as Jessie street would have been, although but two tracks would have been crossed at Jessie street and there are three to be crossed at McFarland. The Jessie street crossing would have been at the entrance to the San Fernando yard, where there is undoubtedly more switching than at McFarland street. There are no obstructions to the view at either crossing, and the railroad company would not be particularly inconvenienced by the construction of either.

At the hearing held on this application many witnesses were examined as to the relative importance of the two crossings under consideration

and with but one or two exceptions all were of the belief that the McFarland street crossing would be by far the most important. This should be apparent from the location of the two streets. Jessie street is the southerly street of the city, and is not a through street in either direction from the proposed crossing. The country to the south of this street on the east side of the track is low and not susceptible of development and improvement. The McFarland street crossing, on the other hand, will be an extension of Brand boulevard, to the west, which is a highly improved road connecting with all the principal roads west of the railroad. On the east McFarland connects directly with the main roads on that side of the track. McFarland street is also the street which is used to reach the packing plants on the railroad's reservation and the crossing at Jessie street could not be used as a substitute for it. McFarland will best serve the convenience of the pupils attending the high school, and I am satisfied that with the construction of a street parallel to the railroad, on the east side of the track, through the high school grounds between Jessie and McFarland streets, as suggested in the opinion in Application 1975, the City of San Fernando will be amply served by crossings in this vicinity for some time to come.

I recommend that the order granting Application 1975 be revoked and this application be granted in accordance with the following order:

ORDER.

City of San Fernando having applied to the Commission for permission to construct McFarland street at grade across the tracks of Southern Pacific Company and a public hearing having been held, and the Commission having this day revoked its permission heretofore granted for the construction of a grade crossing at Jessie street, and it appearing that this application should be granted subject to certain conditions to be hereinafter specified,

It is hereby ordered that the City of San Fernando, Los Angeles County, California, be and the same is hereby granted permission to construct McFarland street at grade across the tracks of Southern Pacific Company at the place and in the manner shown by the map attached to the application; said crossing to be constructed subject to the following conditions and not otherwise, viz:

(1) The crossing shall be constructed of a width of not less than twenty-four (24) feet, with grades of approach not exceeding four (4) per cent, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(2) The cost of maintaining this crossing thereafter in good and first-class condition shall be borne by the applicant up to a point within two (2) feet of the rails of Southern Pacific Company. The cost of maintaining the crossing thereafter between the rails and to a point

two (2) feet outside thereof shall be borne by Southern Pacific Company.

(3) For the protection of this crossing there shall be installed a first-class automatic flagman of a type approved by the Commission. The cost of this installation shall be borne by applicant, and the cost of its maintenance thereafter in first-class operating condition shall be borne by Southern Pacific Company.

(4) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance, and protection of said crossing as to it may seem right and proper, and to revoke its permission, if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of March, 1916.

DECISION No. 3187.

IN THE MATTER OF THE APPLICATION OF KLAMATH TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER AUTHORIZING IT TO SELL A TELEPHONE LINE TO THE SISKIYOU TELEPHONE COMPANY.

Application No. 2065.

Decided March 25, 1916.

Klamath Telephone and Telegraph Company, operating several telephone exchanges in districts of Siskiyou County, applies jointly with the Siskiyou Telephone Company for permission to transfer such exchanges to the latter named company for a consideration of \$6,000.00. Application granted.

REPORT OF THE COMMISSION.

This is an application by the Klamath Telephone and Telegraph Company, a copartnership, for authority to sell and transfer certain property of its telephone system to the Siskiyou Telephone Company, a corporation.

The applicant is an association composed of Joseph V. Hessig, John H. Hessig, and Augusta M. Hessig, copartners, doing business under the name of the Klamath Telephone and Telegraph Company, and owns and operates three telephone systems, two of which are in Siskiyou County, California, and the third in Klamath County, Oregon. The two systems in Siskiyou County are practically fifteen miles apart between the two nearest points, Yreka and Ager.

The property in question comprises about one hundred and forty miles of telephone line and equipment lying west and south of Yreka, Siskiyou County, and is more particularly described in an inventory and an agreement filed in connection with this application, together with the map showing its location.

The full agreed purchase price of the property to be sold is the sum of six thousand (6,000) dollars, which is to be paid by the Siskiyou Telephone Company in the following manner: Two thousand five hundred (2,500) dollars cash; one thousand (1,000) dollars on July 1, 1916; one thousand five hundred (1,500) dollars on January 1, 1917; and one thousand (1,000) dollars on July 1, 1917; the deferred payments to bear interest at the rate of four (4) per cent per annum and to be secured by first mortgage on all property in question.

The Siskiyou Telephone Company owns and operates a telephone system beginning at Yreka and extending southerly a distance of approximately twenty-five miles. These lines, if the proposed sale is effected, can at a small expense be connected with the lines of the Klamath Telephone and Telegraph Company, thereby providing a connected telephone service from Scott Bar to Fort Jones; from Fort Jones to Yreka; from Yreka to Happy Camp; and from Happy Camp to Forks of Salmon; establishing a complete system of exchange for the western part of Siskiyou County. This system, the applicant states, will render better service to the public than can be given under the present conditions.

In connection with this application the Klamath Telephone and Telegraph Company filed an inventory and appraisal of all property under consideration, showing a total construction cost estimate for materials and labor of seven thousand fifty-eight dollars and seventy cents (\$7,058.70). The application states that the original cost of this property was approximately five thousand five hundred (5,500) dollars, including government assistance, for which the government was reimbursed through the granting of unlimited and perpetual telephone service for official business. The discrepancy between the two figures is explained by the fact that the construction cost was carefully computed from construction records, while the latter figure is the amount paid to the corporation which built the system. The company further claims that the present value of said property is six thousand (6,000) dollars, which is the amount agreed upon as the full purchase price.

The Commission's engineering department has checked the statements of the company and applied to the quantities as checked proper unit prices. In addition to an estimate of reproduction cost new there was made an estimate of reproduction cost less depreciation on the basis of a present condition of the property of 70 per cent as compared

with new. It does not appear necessary to go into the details of these estimates, a summary of which is as follows:

	Reproduction cost new	Reproduction cost less depreciation
Division No. 1: Telephone lines between Yreka and Hamburg via Humbug-----	\$2,172 00	\$1,520 40
Division No. 2: Two branch lines to Eliza and Mono Mines via Summit on Humbug-----	271 67	190 17
Division No. 3: Line from Hamburg to Happy Camp-----	1,639 90	1,147 93
Division No. 4: Branch lines from Nolton to Evans Ranch, Sixes Mine, Siskiyou Mine and Gordon's Ranch-----	635 60	444 92
Division No. 5: Line from Walker to Garretson Springs-----	368 10	257 67
Division No. 6: Line from Walker to Gottville-----	391 67	274 17
Division No. 7: Line from Walker to Gosneys on Horse Creek-----	292 60	204 82
Division No. 8: Line from Walker to Commodore Mine-----	189 66	132 62
Division No. 9: Line from Walker to Sam White's Ranch-----	135 37	94 76
Division No. 10: Line from Hamburg to Scott Bar-----	193 16	135 21
Division No. 11: Small lateral telephone lines-----	63 72	44 60
Division No. 12: Other property-----	890 00	623 00
Totals -----	\$7,243 45	\$5,070 27
Overhead expenses, including engineering, legal expenses, organization, interest during construction, and contingencies, at 10 per cent of last total-----	721 32	507 03
Grand totals -----	\$7,967 77	\$5,577 30

No money value has been given in this estimate to the privilege granted by the United States Government to this company, permitting it to use, within the Forest Reserve, trees for the stringing of wire.

It is the Commission's opinion that public interest will be served if this application is granted.

ORDER.

Klamath Telephone and Telegraph Company, an association, having filed with the Commission an application for an order authorizing the sale of a telephone line to the Siskiyou Telephone Company, a corporation; and it appearing to the Commission that on the basis of the figures shown in the foregoing opinion the proposed purchase price of six thousand (6,000) dollars is reasonable, and that a consolidation of telephone lines as contemplated in the purchase agreement between applicant and the Siskiyou Telephone Company will undoubtedly result in better service and greater convenience to the public, and that the application should be granted,

It is hereby ordered that this application be and the same is hereby granted, provided that the consideration given for the property herein authorized to be transferred, shall not be taken by this Commission, or any other public body, as representing, for rate fixing or other purposes, the value of the property transferred.

Dated at San Francisco, California, this 25th day of March, 1916.

DECISION No. 3188.

B. H. McNEIL

vs.

NORTHWESTERN PACIFIC RAILROAD COMPANY.

Case No. 922.

Decided March 25, 1916.

Complainants petition the Commission to require defendant company to stop on flag at its station of Rohnerville trains Nos. 1 and 2, running between San Francisco and Eureka, and it appearing that such petition is reasonable and that the business from that point warrants its establishment as a flag stop, order made accordingly to become effective within ten days.

Wm. Kehoe, for Complainant.

Delos A. Mace, for Defendant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

Complainant in this case alleges that by reason of the failure of the Northwestern Pacific Railroad Company to stop its trains Nos. 1 and 2 at the station of Rohnerville, Humboldt County, to permit passengers to board and alight, passengers to and from the town of Rohnerville are inconvenienced and are compelled to use the more distant stations of Alton or Fortuna. The defendant filed its answer denying the material allegations of the complaint. A public hearing was held at Rohnerville on March 16, 1916, at which time the case was submitted.

The town of Rohnerville is situated east of the station of Rohnerville. The distance by wagon road from the station to the Rohnerville post office is 1.4 miles. The distance from the Rohnerville post office to the agency station at Fortuna is 3 miles and to the Alton station even farther. Patrons of the Northwestern Railroad Company desiring to travel to and from Rohnerville, object to the rule of the Northwestern Pacific Railroad Company compelling the use of the station of Fortuna, as trains Nos. 1 and 2, being the only trains between San Francisco and Eureka in each direction, pass Fortuna at hours when there is no dependable transportation between Fortuna and Rohnerville. The evidence shows that special arrangements are necessary for automobile transportation between these towns by passengers destined to Rohnerville, who are compelled to alight from train No. 2 at Fortuna.

The station of Rohnerville was established by the Eel River and Eureka Railway, predecessor in interest of the defendant, Northwestern Pacific Railroad Company, during the year 1884. At one time there was a station building with agent's living quarters, ticket office and waiting room, and a large freight warehouse. The agency station was

continuously maintained until the year 1906, since which time a non-agency station has been maintained. The evidence shows that the population of the town of Rohnerville and adjacent territory tributary to the station of Rohnerville is between 500 and 600 people. A flag stop at Rohnerville for trains Nos. 1 and 2 was maintained from May to October, 1915, during which latter month it was discontinued. Although the station of Rohnerville is served by two trains in each direction daily, stopping on flag, these trains are local and do not serve any territory south of the station of South Fork.

Witnesses for the defendant testified that the principal reason for the elimination of Rohnerville as a flag stop for trains Nos. 1 and 2 was that the location of the line between the stations of Alton and Fortuna was such that high speed could be safely maintained, and that frequently late trains could be restored to schedule by taking advantage of the opportunity for high speed over this section of the line. The present schedule of train No. 1 between Eureka and San Francisco is 12 hours and 35 minutes, or an average speed of 22.5 miles per hour; the schedule of train No. 2 between San Francisco and Eureka is 12 hours and 5 minutes, or an average speed of 23.5 miles per hour. These schedules are not fast and can be made without difficulty under normal weather conditions. The evidence shows that the mere possibility of a flag at Rohnerville station would not cause a delay in excess of between one and two minutes, and that an actual stop at Rohnerville station would cause a delay not to exceed about four minutes. The addition of a flag stop at the station of Rohnerville would not require a lengthening of the schedules between Eureka and San Francisco in either direction.

In view of the accommodation that will be furnished the patrons of the Northwestern Pacific Railroad Company traveling to and from the territory served by Rohnerville station by the establishment of a flag stop for trains Nos. 1 and 2, without any substantial detriment to the service of Northwestern Pacific Railroad Company, I am of the opinion that the request of complainant is reasonable and that such flag stop should be established.

I submit the following form of order:

ORDER.

Complaint having been made that Northwestern Pacific Railroad Company refuses to stop its trains Nos. 1 and 2 on flag at Rohnerville station for the purpose of taking on and discharging passengers, baggage, mail and express, a public hearing having been held and the Commission being fully advised, the Railroad Commission hereby finds as a fact that it would be just and reasonable to require Northwestern Pacific Railroad Company to stop trains Nos. 1 and 2 on flag at the station of Rohnerville for the purpose of taking on and discharging passengers, baggage, express and United States mail matter.

Basing its order on the foregoing finding of fact and on the other findings of fact which are contained in the opinion which precedes this order,

It is hereby ordered that within ten days after the service of this order the Northwestern Pacific Railroad Company shall stop its trains Nos. 1 and 2 on flag at the station of Rohnerville for the taking on and discharging passengers, baggage, express and United States mail matter, and that Northwestern Pacific Railroad Company shall thereafter continue said Rohnerville station as a flag station for its trains Nos. 1 and 2 for said purposes until otherwise ordered by this Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of March, 1916.

Decisions Nos. 3189, 3190, 3191, 3192, 3193 and 3194, grade crossings; not printed.
See end of volume.

DECISION No. 3195.

**IN THE MATTER OF THE APPLICATION OF THE CITY OF BRAWLEY,
IN THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA, FOR A
GRADE CROSSING AT K STREET, IN SAID CITY, ACROSS THE
TRACKS OF SOUTHERN PACIFIC COMPANY.**

Application No. 1821.

Decided March 25, 1916.

Applicant's petition for permission to open K street at grade across the tracks of Southern Pacific Company granted, provided that the H street and Keystone road crossing shall be closed as public highways.

W. R. Wilson, for Applicant.

G. D. Squires, for Southern Pacific Company.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

This application was filed with the Commission by the City of Brawley on August 4, 1915, and asks authority to construct K street at grade over the tracks of the Southern Pacific Company. A public hearing was held in Brawley on November 20, 1915.

The railroad traverses Brawley in a north and south direction. K street, proposed to be opened, is 2,100 feet south of the main street in the city on which the station is located, and is the southerly street in Brawley. Between K street and Main street there are at the present

time three open streets: G street, H street and Keystone road, crossing the tracks in the order named from north to south.

The Southern Pacific Company opposed the granting of this application unless some of the crossings between K and Main streets were closed, and the city made no objection to complying with this suggestion.

Proceedings have been under way for some time looking to closing Keystone road, and there seems to be no reason why H street, at the railroad's right of way, should not also be closed.

The official map of Brawley makes it clear that with K street open across the railroad the town will be amply provided with crossings and that the Keystone road and H street crossings will serve no public necessity. Both of these crossings are across the yard tracks of the railroad while K is beyond the yard limits and will be safer and freer from interruption by switching than the other two.

I am satisfied that K street should be open, provided the other two streets are closed, and I shall recommend that this be covered in the order.

The K street crossing will be open and no protection will be needed at this time other than the usual crossing sign.

I recommend the following form of order:

ORDER.

City of Brawley having applied to the Commission for permission to construct K street at grade across the tracks of Southern Pacific Company, and a public hearing having been held, and it appearing that this application should be granted, subject to certain conditions to be hereinafter specified.

It is hereby ordered that permission be hereby granted the City of Brawley to construct K street at grade over the tracks of Southern Pacific Company at the point shown by the map attached to the application, subject to the following conditions, viz:

(1) The crossing shall be constructed of a width of not less than twenty-four (24) feet, with grades of approach not exceeding four (4) per cent; shall be protected by a suitable crossing sign and shall in every way be made safe and convenient for the passage thereover of vehicles and other road traffic.

(2) The entire expense of constructing the crossing shall be borne by applicant.

(3) The expense of maintaining this crossing hereafter between the rails, and to a distance of two (2) feet outside thereof, shall be borne by Southern Pacific Company.

(4) The expense of maintaining the crossing to a point within two (2) feet of the rails of Southern Pacific Company shall be borne by the applicant.

(5) The present crossings at H street and Keystone road shall be legally closed and abandoned as public highway crossings.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance, and protection of said crossing as to it may seem right and proper, and to revoke its permission, if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of March, 1916.

DECISION No. 3196.

IN THE MATTER OF THE APPLICATION OF COUNTY OF IMPERIAL FOR PERMISSION TO OPEN FIVE PUBLIC HIGHWAYS ACROSS THE INTER-CALIFORNIA RAILWAY COMPANY AND ITS LESSEE, SOUTHERN PACIFIC COMPANY.

Application No. 1978.

IN THE MATTER OF THE APPLICATION OF IMPERIAL COUNTY FOR AUTHORITY TO CONSTRUCT AND MAINTAIN CERTAIN PUBLIC HIGHWAYS ACROSS THE RIGHT OF WAY OF INTER-CALIFORNIA RAILWAY COMPANY AND ITS LESSEE, SOUTHERN PACIFIC COMPANY.

Application No. 2144.

Decided March 25, 1916.

Applicant's petition for permission to construct five certain crossings at grade across the tracks of Inter-California Railway, a line operated by Southern Pacific Company, granted.

Geo. D. Squires, for Southern Pacific Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

Application 1978 was filed with the Commission by Imperial County on November 26, 1915, and asks permission to construct five crossings at grade over the tracks of the Inter-California Railway Company, which is leased by the Southern Pacific Company. The second application (App. 2144) filed March 16, 1916, covers one of the crossings applied for in the previous application and was filed to cover a correction in the description of the right of way to be acquired for road purposes. The two applications were heard at one time and can be covered by one opinion and order.

The railroad company made no objection to the opening of these crossings. They have, in fact, issued easements covering the necessary right of way. The five crossings proposed in the applications are all north of the Alamo River and south of Niland and between these two points, a distance of 16 miles, there are no open public crossings. The country has recently been placed under irrigation and considerable development has taken place, which makes it reasonable and necessary that public highways should be opened across the tracks.

With the exception of one crossing, which is in the center of the unincorporated town of Calipatria, all of these crossings are in open country and cross a single track at right angles, so the hazard of accident is reduced to a minimum.

The crossing at Calipatria crosses two tracks, but the view is unobstructed and all trains stop at the station, which is close to the crossing, so this crossing will also be comparatively safe.

I am satisfied on the facts of this case that public necessity and convenience demand their opening.

I recommend the following form of order.

ORDER.

Imperial County, California, having applied to the Commission for permission to construct five crossings, to be hereinafter described, at grade over the tracks of the Inter-California Railway Company, leased by Southern Pacific Company, and a public hearing having been held, and it appearing that these applications should be granted subject to certain conditions,

It is hereby ordered that permission is hereby granted Imperial County, California, to construct five crossings at grade over the track of the Inter-California Railway Company and its lessee, Southern Pacific Company, described as follows:

1. Beginning at a point in the line between sections 3 and 10, T. 11 S., R. 14 E., S. B. B. and M., which line intersects the center line of the Inter-California Railway main track at E. S. 23 plus 37.3 more or less, said point being distant westerly measured along said section line 200 feet from the center line of main track of the Inter-California Railway Company; and located in the westerly permanent way line of said railroad; thence northerly, at right angles to said section line and along said permanent way line parallel with and distant 200 feet from center line Inter-California Railway 50 feet to a point; thence easterly at right angles 300 feet to a point in the easterly permanent way line of said railroad; thence southerly at right angles and along said easterly permanent way line 100 feet to a point; thence westerly at right angles 200 feet to a point in the westerly right of way line of the Inter-California Railway opposite E. S. 23 plus 87.3; thence northerly at right angles along said westerly permanent way line 50 feet to a point on

aforementioned line between sections 3 and 10; thence west along said section line 100 feet to a point of beginning.

2. Beginning at a point on the line between sections 10 and 15, T. 11 S., R. 14 E., S. B. B. and M., which line intersects center line of main line of Inter-California Railway at E. S. 76 plus 18.3, more or less; said point being distant easterly at right angles from aforementioned center line of track 100 feet and being located in the easterly permanent way line of the Inter-California Railway; thence northerly at right angles along said permanent way line a distance of 50 feet to a point; thence westerly at right angles to last course 200 feet to a point in the westerly permanent way line of the Inter-California Railway; thence southerly at right angles along said westerly permanent way line 100 feet to a point; thence easterly at right angles 200 feet to a point in the easterly permanent way line of the Inter-California Railway; thence at right angles and along said easterly permanent way line 50 feet to point of beginning.

3. Beginning at a point on the line between sections 15 and 22, T. 11 S., R. 14 E., S. B. B. and M., Imperial County, California, which line intersects center line of the Inter-California Railway at E. S. 128 plus 99.3, more or less; said point being distant easterly at right angles from aforementioned center line of track 100 feet, and being located in the easterly permanent way line of the Inter-California Railway; thence northerly at right angles and along said easterly permanent way line a distance of 50 feet to a point; thence westerly at right angles 200 feet to a point in the westerly permanent way line of the Inter-California Railway, thence southerly along said westerly permanent way line 100 feet to a point, thence easterly at right angles 200 feet to a point in the aforementioned easterly permanent way line; thence northerly at right angles and along said easterly permanent way line 50 feet to point of beginning.

4. Beginning at a point in the line between sections 3 and 10, T. 12 S., R. 14 E., S. B. B. and M., county of Imperial, State of California, said point being in the easterly permanent way line of the Inter-California Railway and distant easterly 100 feet from the intersection of the aforesaid section line with the center line of the aforesaid railway at E. S. 340 plus 67, more or less, measured along the aforesaid section line; thence north $0^{\circ} 26'$ east, parallel with the aforesaid center line of railway, 50 feet to a point; thence south $89^{\circ} 59'$ west, parallel with and distant northerly 50 feet, measured at right angles from the aforesaid section line 200 feet to a point in the westerly permanent way line of the aforesaid railway; thence south $0^{\circ} 26'$ west, along aforesaid westerly permanent way line 100 feet to a point; thence north $89^{\circ} 59'$ east, parallel with the aforesaid section line 200 feet to a point in the aforesaid easterly permanent way line; thence north $0^{\circ} 26'$ east along aforesaid easterly permanent way line 50 feet to the point of beginning, and more particularly shown enclosed within red inked-lines on blue print map attached to the application.

5. Beginning at a point in the easterly permanent way line of the Inter-California Railway, said point being opposite Engineer's

Station 419 — 37.1 and distant easterly 250.0 feet, measured at right angles from the center line of the constructed main track of said railway; thence southerly along the easterly permanent way line of said railway a distance of 100.0 feet; thence westerly at right angles 400.0 feet to a point in the westerly permanent way line of said railway; thence northerly along said westerly permanent way line of said railway a distance of 100.0 feet; thence easterly at right angles 400.0 feet to point of beginning, and more particularly shown enclosed within red inked lines on blue print map attached to the application.

All of the above as shown by the maps attached to the applications; crossings to be constructed subject to the following conditions, viz:

(1) These crossings shall be constructed of a width not less than twenty-five (25) feet, with grades of approach not exceeding four (4) per cent; shall be protected by suitable crossing signs, and shall in every way be made safe and convenient for the passage thereover of vehicles and other road traffic.

(2) The entire expense of constructing the crossings shall be borne by applicant.

(3) The expense of maintaining the crossings thereafter between the rails and to a distance of two (2) feet outside thereof shall be borne by Southern Pacific Company.

(4) The expense of maintaining the crossings to a point within two (2) feet of the rails of track shall be borne by the applicant.

(5) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance, and protection of said crossings as to it may seem right and proper, and to revoke its permission, if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of March, 1916.

DECISION No. 3197.

IN THE MATTER OF THE APPLICATION OF PETALUMA AND SANTA ROSA RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

Application No. 2103.

Decided March 25, 1916.

Applicant heretofore entered into a contract to purchase certain property on which its depot is situated, provided the owner thereof purchased 165 shares of stock

at \$25.00. Applicant issued the stock in question under the impression that stock bought in by a utility for nonpayment of assessment did not require authorization of the Commission for its reissuance.

Held, That such stock requires the authorization of this Commission for its issuance the same as stock originally issued by a public utility. As this Commission has never permitted a stock issue at less than 80 or 85, and it is proposed to issue the stock herein applied for at 25, application denied.

Edwin T. McMurray, for Applicant.

REPORT OF THE COMMISSION.

This is an application on behalf of Petaluma and Santa Rosa Railway Company for an order authorizing the issue by applicant of 165 shares of its capital stock to George P. McNear, in pursuance of an agreement made and entered into between applicant and George P. McNear in July, 1912.

A public hearing was held on March 7, 1916, in San Francisco, and from the evidence it appears that, prior to December 24, 1907, all of applicant's capital stock, consisting of 10,000 shares of common stock of the par value of \$100.00 each, had been issued as fully paid up, although it had in no case, so far as this Commission could ascertain, brought more than \$40.00 per share.

In December, 1907, applicant levied an assessment of \$10.00 per share upon said outstanding stock, and at the subsequent assessment sale applicant bought in 224 shares of said stock which it still holds.

Ever since the construction of applicant's railroad, its yards and passenger station at Petaluma have been situated upon a portion of the block of land commonly known as Block No. 7 of East Petaluma, which applicant leased from George P. McNear at a rental of \$50.00 per month under a ten-year lease. On or about July 27, 1912, the lease having almost expired, applicant entered into an agreement with George P. McNear to purchase said property for \$9,500.00 upon the condition that said McNear would purchase from applicant 165 shares of its capital stock at \$25.00 per share. The sale of the stock was accordingly concluded, and thereupon applicant paid said McNear the \$4,125.00 received from the sale of said stock and a note for the remaining \$5,375.00.

Applicant did not, however, obtain an order from this Commission authorizing the issue of said 165 shares of stock, as its officers mistakenly believed that the Public Utilities Act did not apply to the issue, by a public utility corporation, of its stock which it had bought in at an assessment sale. When applicant realized that it had acted illegally in attempting to issue said stock, it canceled said certificate and filed the present application with this Commission for authority to issue stock in lieu thereof.

There is no question in our minds but that this Commission has the same authority over the issue of stock which has been bought in by a

corporation upon an assessment sale as over stock which has never before been issued. Moreover, it has been the policy of this Commission not to authorize any corporation to issue stock at less than 80 per cent or 85 per cent of its par value, and we feel that the circumstances of this case as presented at the hearing do not warrant us in departing from this policy.

In authorizing stock to be issued in lieu of stock theretofore unlawfully issued, the Commission follows the same policy with reference to the amount to be received for the sale of the stock as in cases where the Commission's authority is sought in the first instance.

ORDER.

Petaluma and Santa Rosa Railway Company having applied to this Commission for an order authorizing the issue at \$25.00 per share to George P. McNear of 165 shares of its capital stock of the par value of \$100.00 per share in pursuance of a certain contract entered into between applicant and said McNear on July 27, 1912, and a public hearing having been held, and it appearing that said contract did not receive the approval of this Commission, and that the application should be denied for the reasons set forth in the foregoing opinion,

It is hereby ordered that this application be and the same is hereby denied.

Dated at San Francisco, California, this 25th day of March, 1916.

DECISION No. 3198.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO AND ARIZONA RAILWAY COMPANY FOR AUTHORITY TO ISSUE A CERTAIN PROMISSORY NOTE IN THE SUM OF THREE HUNDRED FIFTY THOUSAND DOLLARS.

Application No. 2147.

Decided March 28, 1916.

Applicant authorized to issue a one-day promissory note in the principal sum of \$350,000.00, bearing interest at 5 per cent per annum, such note to be issued in renewal of a one-day promissory note at present held by the Union Trust Company of San Francisco.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This is an application of San Diego and Arizona Railway Company for authority to issue a one-day promissory note in the total principal sum of \$350,000.00, bearing interest at 5 per cent per annum, and payable to Union Trust Company of San Francisco.

Applicant desires to issue this note in order to renew a similar note dated March 1, 1912, the proceeds from which were used in the construction of the railway company's line.

In connection with this application, San Diego and Arizona Railway Company has submitted a statement showing its financial condition as of February 29, 1916. This statement shows that the company has a total authorized issue of common stock amounting to \$6,000,000.00, of which \$2,000,000.00 is issued and outstanding, being 20,000 shares of the par value of \$100.00 per share.

The company has a total authorized bond issue of \$10,000,000.00, first lien 5 per cent sinking fund forty-year gold bonds, the same having been authorized by this Commission on February 9, 1914 (Vol. 4, Opinions and Orders of the Railroad Commission of California, page 177). The company reports that none of these bonds have been issued to date.

As of February 29, 1916, applicant had outstanding promissory notes as follows:

Date of note	Amount of note	Date of maturity	Interest rate, per cent	Amount of interest paid last fiscal year
In favor of Union Trust Co. of San Francisco:				
Mar. 1, 1912 -----	\$350,000 00	Mar. 2, 1912	5	\$17,743 13
Aug. 18, 1914 -----	275,000 00	Aug. 19, 1914	5	13,941 01
In favor of Wells Fargo Nevada National Bank:				
Jan. 31, 1915 -----	730,000 00	Feb. 1, 1915	5	37,006 96
In favor of The Anglo and London Paris National Bank:				
Nov. 8, 1915 -----	25,000 00	Nov. 9, 1915	5	-----
Nov. 8, 1915 -----	25,000 00	Nov. 9, 1915	5	-----
Nov. 8, 1915 -----	25,000 00	Nov. 9, 1915	5	-----
In favor of J. D. Spreckels & Bros. Co., trustee:				
Aug. 27, 1913 -----	1,067,901 12	Feb. 27, 1914	6	-----
In favor of J. D. Spreckels & Bros. Co.:				
Sept. 30, 1914 -----	1,830,657 92	Oct. 1, 1914	6	83,294 93
Oct. 31, 1914 -----	120,222 50	Nov. 1, 1914	6	4,848 97
Nov. 30, 1914 -----	107,421 71	Dec. 1, 1914	6	3,795 56
Dec. 31, 1914 -----	130,317 30	Jan. 1, 1915	6	3,931 24
Jan. 31, 1915 -----	90,161 66	Feb. 1, 1915	6	2,254 05
Feb. 28, 1915 -----	110,166 66	Mar. 1, 1915	6	2,240 05
Mar. 31, 1915 -----	105,208 49	Apr. 1, 1915	6	1,595 66
Apr. 30, 1915 -----	130,501 17	May 1, 1915	6	1,324 76
May 31, 1915 -----	90,245 83	June 1, 1915	6	451 23
June 30, 1915 -----	125,267 50	July 1, 1915	6	-----
July 31, 1915 -----	90,155 00	Aug. 1, 1915	6	-----
Aug. 31, 1915 -----	45,988 34	Sept. 1, 1915	6	-----
Sept. 30, 1915 -----	130,290 00	Oct. 1, 1915	6	-----
Oct. 31, 1915 -----	130,220 83	Nov. 1, 1915	6	-----
Nov. 30, 1915 -----	60,114 99	Dec. 1, 1915	6	-----
Dec. 31, 1915 -----	110,270 83	Jan. 1, 1916	6	-----
Jan. 31, 1916 -----	75,094 99	Feb. 1, 1916	6	-----
Feb. 29, 1916 -----	50,175 00	Mar. 1, 1916	6	-----
Totals -----	\$6,029,284 84			\$172,427 55

In addition applicant reports other indebtedness as follows:

Accounts payable	\$50,604 88
Interest matured unpaid	171,091 23
Unmatured interest accrued	631 75
Retained percentages due contractors.....	46,981 13
Total	\$269,308 99

After a consideration of the evidence submitted by applicant it appears that this application should be granted, and I accordingly submit the following form of order:

ORDER.

San Diego and Arizona Railway Company having applied to this Commission for authority to issue a one-day promissory note in the total principal sum of \$350,000.00, bearing interest at 5 per cent per annum and payable to Union Trust Company of San Francisco; and a hearing having been held, and it appearing to this Commission that applicant's request is reasonable and should be granted and that the purposes for which it is proposed to issue said note are not reasonably chargeable in whole or in part to operating expenses or to income,

It is hereby ordered that applicant be and it is hereby authorized to issue a one-day promissory note in the total principal sum of \$350,000.00, bearing interest at 5 per cent per annum and payable to Union Trust Company of San Francisco.

The authority herein granted is granted upon the following conditions and not otherwise:

1. The note herein authorized to be issued shall be issued for the sole purpose of refunding a note in like tenor and amount, dated March 1, 1912, and payable to Union Trust Company of San Francisco.

2. San Diego and Arizona Railway Company shall keep separate, true, and accurate accounts, showing the receipt and application in detail of the proceeds of the sale of the note herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said note during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act.

4. The authority herein granted shall apply only to such note as shall have been issued on or before July 1, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission.

Dated at San Francisco, California, this 28th day of March, 1916.

DECISION No. 3199.

IN THE MATTER OF THE APPLICATION OF THE CITY OF LONG BEACH FOR TWO STREET CROSSINGS OVER THE PACIFIC ELECTRIC RAILWAY COMPANY'S TRACKS IN SAID CITY.

Application No. 1996.

Decided March 28, 1916.

Applicant granted permission to construct two certain crossings at grade over the tracks of Pacific Electric Railway Company, provided that though crossing signs only are required at present, if in the future more adequate protection would appear to be necessary, order will be made accordingly.

George L. Hodenpyl, for Applicant.

W. R. Miller, for Pacific Electric Railway Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This application was filed with the Commission on December 6, 1915, and looks to the opening of two streets, Thirty-ninth place and Termino avenue, over the track of the Pacific Electric Railway Company, in the city of Long Beach.

These two proposed crossings will be within six hundred feet of each other and at the extreme east side of the city of Long Beach, Termino avenue being east of Thirty-ninth place. The tracks at this point run in a general east and west direction, and the two streets which it is proposed to extend across the tracks are approximately north and south streets. The crossing at Thirty-ninth place will connect that street south of the tracks with Grand avenue to the north. Immediately north of the tracks and parallel to them is Livingston drive. South of the tracks and parallel to them at Grand avenue, and about two hundred feet south of them at Termino avenue, is Ocean avenue.

At the present time the nearest open crossing to the east is two miles or more distant, and to the west several blocks. Virginia avenue, three hundred feet west of Thirty-ninth place, is legally a public street, although it has never been opened and improved so traffic can use it. There is at present an open crossing at Thirty-ninth place which has been used by the public for at least eleven years, but the city of Long Beach desires to widen and improve it and wishes title to the property involved and an unquestioned legal right to make improvements and keep the street open.

The Pacific Electric Railway Company has granted the city an easement for the necessary property, and although I am reluctant to recommend granting permission for the construction of crossings so close together as six hundred feet, in view of the peculiar circumstances exist-

ing it seems only reasonable that it should be done here. A new pier has recently been constructed at Thirty-ninth place at such an elevation that it can not be reached from any other street south of Ocean avenue, while Termino avenue is the only street to the beach. In other words, one of these streets is needed to make the pier accessible and the other to take traffic to the beach, and neither street will serve both purposes.

Both crossings are comparatively open, but on account of the heavy traffic at Thirty-ninth place on both the tracks and the highway some protection will probably be needed. If the plan of the city is carried out Ocean avenue and Livingston drive will be connected at Thirty-ninth place by a crossing, which will unite the two streets in such a manner that the tracks will practically be in the center of a wide paved street, and until this improvement is made and observations are taken as to the direction of traffic at the crossing, it will be impossible to determine the best location for such protection as may be needed. I believe, therefore, that the Commission should at this time order no protection except the usual crossing sign, but should reserve the right to order more ample protection in the future and apportion its expense as it deems just.

Virginia avenue which is a legal street but has not been opened, should be legally closed and abandoned as a public highway crossing.

I recommend the following form of order:

ORDER.

City of Long Beach having applied to the Commission for permission to construct Thirty-ninth place and Termino avenue at grade across the tracks of Pacific Electric Railway Company, and a public hearing having been held, and it appearing that this application should be granted subject to certain conditions to be hereinafter specified,

It is hereby ordered that permission be and the same hereby is granted the city of Long Beach to construct Thirty-ninth place and Termino avenue at grade across the tracks of the Pacific Electric Railway Company at the points shown by the map attached to the application; said crossings to be constructed subject to the following conditions and not otherwise, viz:

(1) Crossings shall be constructed of a width of not less than twenty-four (24) feet, with grades of approach not exceeding four (4) per cent, shall be protected by suitable crossing signs, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(2) The entire expense of constructing these crossings shall be borne by applicant.

(3) The expense of maintaining these crossings thereafter in good and first class condition shall be borne by the applicant to within

two (2) feet of the rails of the Pacific Electric Railway Company. The expense of maintaining the crossings between the rails and to a distance of two (2) feet outside thereof shall be borne by Pacific Electric Railway Company.

(4) The crossing of Virginia avenue shall be legally closed and abandoned as a public highway crossing.

(5) The Commission reserves the right to order such further protection for the Thirty-ninth place crossing as it believes desirable, and to apportion the expense thereof between the applicant and Pacific Electric Railway Company in such manner as it may deem to be equitable.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance, and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 28th day of March, 1916.

DECISION No. 3200.

IN THE MATTER OF THE APPLICATION OF THE MINKLER SOUTHERN RAILWAY COMPANY AND THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE FORMER TO LEASE TO THE LATTER ITS LINE OF RAILWAY.

Application No. 1429.

Decided March 28, 1916.

REPORT OF THE COMMISSION.

This application was filed with the Commission on November 26, 1914. It was accompanied by no valuation or statement of cost. The construction books of the company have not yet been closed, but the Commission is now in receipt of a statement showing the actual cost of the Minkler Southern Railway, in accordance with that company's books, to February 1, 1916, to be \$1,341,848.90.

The Minkler Southern Railway Company, as set forth in the application, was incorporated by The Atchison, Topeka and Santa Fe Railway Company with the intention of making the former line of railway a part of the Santa Fe system. The cost of the Minkler Southern line has been borne entirely by the Santa Fe. The lessee is to pay rental under

the terms of the lease, a copy of which is attached to the application, on the following basis:

All charges and expenses of every kind, including all interest which may, during the remainder of the term hereof, become due and payable by the lessor.

All taxes, assessments and governmental charges which during said term shall accrue or become due upon the demised premises, or any part thereof, under any law of the United States or of any state, city or township therein, or of any other lawful authority.

All rentals and other sums which the lessor shall become liable to pay during said term under any lease or agreement existing on October 1, 1914, relating to the use of any facility or appurtenance of the demised railroad, or under any lease or agreement which, during said term, may be made by the lessor with the written consent of the lessee.

All expenses necessarily incurred by the lessor for the purpose of maintaining and perpetuating its organization.

The lease can be terminated upon thirty days notice by either party.

No valuation of the property of the Minkler Southern Railway Company has been made by the Commission and the cost statement filed by applicant has not been checked, but there seems to be no reason why this application should not be granted.

ORDER.

It is hereby ordered that the application of Minkler Southern Railway Company and The Atchison, Topeka and Santa Fe Railway Company, asking permission for the former to lease to the latter its line of railway, in accordance with certain agreements dated October 1, 1914, and July 1, 1915, be and the same is hereby granted.

Dated at San Francisco, California, this 28th day of March, 1916.

Decision No. 3201, grade crossing; not printed See end of volume.

DECISION NO. 3202.

IN THE MATTER OF THE APPLICATION OF UKIAH WATER AND IMPROVEMENT COMPANY FOR AN ORDER AUTHORIZING AN ISSUE OF REFUNDING NOTES.

Application No. 2095.

Decided March 29, 1916.

Applicant authorized to issue, for a period of not to exceed three years, promissory notes of an aggregate face value of \$43,300.00, such notes to be issued at their full face value in renewal of notes in a like sum at present outstanding.

J. H. Brush, for Applicant.

Chas. M. Mannon, city attorney, for City of Ukiah.

REPORT OF THE COMMISSION.

Ukiah Water and Improvement Company, a corporation, operating a domestic water system in the city of Ukiah, Mendocino County, applies for authority to issue \$43,300.00 of promissory notes, for a period not to exceed three years at a rate of interest not to exceed 6 per cent per annum, for the purpose of refunding notes for a like amount.

Applicant was incorporated July 18, 1892, with an authorized capital stock of \$50,000.00, divided into 500 shares of the par value of \$100.00 each, all outstanding. Its property is not encumbered. Its sole indebtedness consists of the \$43,300.00 of promissory notes shown in the order.

From the beginning applicant has financed its properties by issuing and reissuing promissory notes from time to time as funds were needed for the development of its business. Its bills payable account has fluctuated almost constantly. It was \$35,000.00 on January 1, 1893, \$54,000.00, its highest point, on January 1, 1909, and now stands at \$43,300.00.

The notes which applicant now desires to refund were given in renewal of other notes. The combined terms of the original notes and the renewal notes are in excess of twelve months. The testimony shows that this violation of the Public Utilities Act arose through a misunderstanding of its terms.

In 1913 applicant had 563 consumers. It now has approximately 630 consumers.

Following is a comparative statement of applicant's earnings over a four-year period as shown by annual reports made to the Commission:

	1912	1913	1914	1915
Operating revenue -----	\$10,550 80	\$10,310 25	\$10,307 24	\$10,229 00
Operating expense -----	5,486 11	6,173 42	6,133 16	5,296 45
Net operating revenue -----	\$5,064 69	\$4,136 83	\$4,174 08	\$4,932 55
Non-operating revenue -----	158 65			
Gross income -----	\$5,223 34	\$4,136 83	\$4,174 08	\$4,932 55
Deductions—				
Interest -----	\$4,117 00	\$4,385 50	\$3,153 50	\$2,921 00
Other deductions -----			1,290 00	1,840 00
Total deductions -----	\$4,117 00	\$4,385 50	\$4,443 50	\$4,761 00
Surplus for year -----	\$1,106 24	*\$248 67	*\$269 42	\$171 55

*Loss.

Applicant's balance sheet as shown by its report to the Commission dated December 31, 1915, is as follows:

Assets:		
Fixed capital	-----	\$98,020 00
Cash	-----	659 09
Total	-----	\$98,679 09
Liabilities:		
Capital stock	-----	\$50,000 00
Notes payable	-----	43,300 00
Miscellaneous	-----	5,379 09
Total	-----	\$98,679 09

While certain adjustments should be made in these reports it does not appear that they are of sufficient importance to impair the showing of net earnings herein made.

Applicant's inventory of its properties exclusive of franchises shows a purported value of \$86,671.00.

ORDER.

Ukiah Water and Improvement Company having applied to the Railroad Commission for authority to issue \$43,300.00 of promissory notes for a period not to exceed three years at a rate of interest not to exceed 6 per cent per annum, and a public hearing having been held thereon, and the Commission finding that the promissory notes which applicant desires to refund were issued for purposes not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Ukiah Water and Improvement Company be and it is hereby authorized to issue and reissue from time to time \$43,300.00 of promissory notes for a period or periods not exceeding three years in the aggregate, at a rate of interest not exceeding 6 per cent per annum, for the purpose of refunding the following notes now outstanding:

Date	Amount	Maturity	Rate per cent	Payable to—
Dec. 31, 1912	\$3,050	Dec. 31, 1913	6	J. H. Brush.
Dec. 31, 1912	5,000	Dec. 31, 1913	6	Avery Brush.
July 1, 1913	10,000	July 1, 1914	6	J. H. Brush.
Jan. 1, 1914	19,000	Jan. 1, 1915	7	Santa Rosa National Bank.
July 27, 1914	1,250	July 27, 1915	6	Bank of Cloverdale.
Jan. 6, 1915	5,000	Jan. 6, 1916	6	Anal Savings Bank.
	\$43,300			

The authority herein granted is upon the following conditions and not otherwise:

1. The notes herein authorized shall be issued so as to net applicant not less than the face value thereof.

2. Ukiah Water and Improvement Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the notes herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission, stating the sale or sales of said notes during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. This application is conditioned upon the payment of the fee prescribed in the Public Utilities Act as amended.

4. The authority herein given shall apply only to such notes as shall have been issued on or before December 31, 1918.

Dated at San Francisco, California, this 29th day of March, 1916.

Decision No. 3203, grade crossing; not printed. See end of volume.

DECISION No. 3204.

IN THE MATTER OF THE APPLICATION OF LOMPOC WAREHOUSE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

Application No. 2068.

Decided March 29, 1916.

Applicant, through a misunderstanding of the provisions of the act governing public utilities, heretofore purported to issue 38,700 shares of stock of the par value of \$1.00 per share, proceeds of which were used in acquiring real estate and for improvements and equipment, and it appearing that such proceeds were devoted to proper capital purposes, applicant authorized to issue 38,700 shares of stock to be issued in lieu of stock heretofore illegally issued.

J. F. Frick, for Applicant.

REPORT OF THE COMMISSION.

This is an application on behalf of Lompoc Warehouse Company of Lompoc, Santa Barbara County, for an order authorizing the issue of 38,700 shares of its capital stock of the par value of \$1.00 per share in lieu of a similar amount of stock which applicant has heretofore attempted to issue without the consent of this Commission.

A public hearing was held at Lompoc on March 16, 1916. From the evidence it appears that applicant was incorporated in October, 1912. Its articles of incorporation provide for a total capital stock of 50,000 shares of the par value of \$1.00 per share, all of which is common stock, and they further state that the purposes for which the corporation is

formed are "to do and transact a general warehouse business; buying and selling grain, produce and merchandise; also to do and transact a general commission and brokerage business; buying, selling, and leasing real estate."

Applicant has been, since its organization, engaged in a general warehouse business in Lompoc, storing beans, mustard seed, barley, oats, potatoes, and onions, and in connection therewith has been operating a cleaning plant and a barley rolling mill, and has been buying and selling produce on its own account.

Upon its incorporation in 1912, applicant sold 35,200 shares of its capital stock at par for cash, the proceeds of which were applied by applicant as follows:

Real estate and improvements-----	\$20,000 00
Bags and twine -----	2,184 56
Construction of cleaner plant-----	3,000 00
Barley mill -----	2,000 00
Beans -----	2,913 60
Barley, oats, and other products-----	2,227 52
Cash retained for current expenses-----	2,874 32
Total -----	\$35,200 00

In addition to the stock sold for cash, applicant issued 3,500 shares to a local association, known as the Seed Growers' Association, for the latter's "good will" and organization. It appears that this unincorporated association was organized for the purpose of launching and operating a warehouse business by seventy individuals, mostly farmers, living in Lompoc and its vicinity, each of whom contributed \$50.00 to the association. It was soon found that the \$3,500.00 so raised was entirely inadequate, and before long little was left to the association but its organization. Upon the incorporation of applicant, however, the members of the Seed Growers' Association, feeling that applicant was an outgrowth of their efforts, contended that they ought to receive an amount of applicant's capital stock equal in par value to the amount of cash which they had contributed to the association; and accordingly applicant finally issued 50-share certificates to each of the seventy members of the association.

The evidence further shows that although all of this stock was issued without the authority of this Commission, both applicant and the purchasers acted throughout in good faith, and until the latter part of 1915 they never knew that it was necessary for applicant to obtain the authority of this Commission before issuing stock.

Applicant's real estate consists of 28 lots 25 x 140 feet each, upon which are erected one so-called double warehouse, 95 x 300 feet, and one single warehouse, 65 x 100 feet. Both warehouses are of wooden frame construction with wooden floors and with walls 12 feet high.

They adjoin the right of way of the Southern Pacific Company and are served by a spur track 600 feet long, built on the railway company's right of way, but at the warehouse company's expense.

Applicant's equipment includes one wagon scale, two dormant scales, three platform scales, a barley rolling mill, a double cleaner plant operated by a 20-horsepower gasoline engine, a piler operated by a 2½-horsepower gasoline engine, and a hoist operated by a 2½-horsepower gasoline engine, in addition to trucks, bags, twine, and other articles generally used in operating warehouses.

Since the first of this year applicant has paid off \$20,000.00 of promissory notes then outstanding and has now no notes, mortgages or other indebtedness. It has never declared any dividends, but its officers testified that the reason for this was that they were reinvesting the company's profits, and they further testified that the stock was, in their opinion, worth more than par. The company has at present forty-four stockholders. All of the stockholders, as well as the public, are apparently satisfied with the present management.

Under all the circumstances of this case we feel that the application should be granted.

ORDER.

Lompoc Warehouse Company having applied to this Commission for an order authorizing it to issue 38,700 shares of its capital stock, of the par value of \$1.00 each, to the holders of certificates for similar amounts of stock which have been illegally issued by applicant, and a public hearing having been held, and it appearing that the purposes for which said stock is to be issued are not in whole or in part reasonably chargeable to operating expenses or to income, and that the application should be granted,

It is hereby ordered that Lompoc Warehouse Company be and the same is hereby authorized to issue 38,700 shares of its capital stock, of the par value of \$1.00 per share, to the present holders of the certificates of said company's capital stock, heretofore illegally issued.

The authority herein granted is granted subject to the following conditions and not otherwise:

1. The stock herein authorized to be issued shall be issued only upon the return to and cancellation by applicant of the certificates for similar amounts of applicant's capital stock, heretofore illegally issued by applicant.
2. The authority herein given to issue said stock applies to such stock as shall have been issued on or before October 31, 1916.
3. Lompoc Warehouse Company shall keep a true and accurate record of the issue of said stock, and shall on or before the twenty-fifth

day of the month following the said issue of said stock make a verified report to this Commission, setting forth the disposition of such stock, the conditions of such disposition and for what purposes the same was issued, all in accordance with this Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

Dated at San Francisco, California, this 29th day of March, 1916.

DECISION No. 3205.

IN THE MATTER OF THE APPLICATION OF LERDO LAND COMPANY TO SELL AND LERDO WATER COMPANY TO PURCHASE THE WATER SYSTEM USED FOR AND IN CONNECTION WITH THE IRRIGATION OF LERDO SUBDIVISION "A," KERN COUNTY, CALIFORNIA, AND SUCH OTHER OF THE RIGHTS OF SAID LERDO LAND COMPANY AS MAY BE OF THE NATURE OF A PUBLIC UTILITY.

Application No. 1943.

Decided March 29, 1916.

Lerdo Land Company having placed on the market a considerable tract of land, in the contracts for the sale of which it agrees to form a mutual water company to serve such property with water, now applies for permission to transfer the water works it has at present in operation to the Lerdo Water Company in exchange for 4,995 shares of stock of the latter company, intending subsequently to divide the water company into mutual companies when the land shall have become sufficiently settled.

In view of the fact that at present there are only approximately ten settlers to be supplied from this system capitalized at \$125,000.00, there is very little likelihood of the company even paying operating expenses, and as the land company has submitted no plans for the formation of mutual companies, it should not be relieved at present from its duties to supply the present settlers with water. Application denied without prejudice.

Thomas C. Job, for Applicant.

H. T. Miller, in *propria persona*, Protestant.

REPORT OF THE COMMISSION.

This is an application of Lerdo Land Company, having its principal place of business in Los Angeles, Los Angeles County, for authority to sell its irrigation plant and system at Lerdo, Kern County, to Lerdo Water Company, and of the latter company to issue stock in payment therefor.

Lerdo Land Company was incorporated on March 10, 1911, for the purpose of placing on the market a tract of approximately 6,500 acres of land situated approximately six miles north of Bakersfield, Kern County.

The original incorporators of Lerdo Land Company were as follows:

W. E. Keller.....	Los Angeles, California.
A. C. Balca.....	Los Angeles, California.
W. H. Holliday.....	Los Angeles, California.
Joseph Sartori	Los Angeles, California.
Ben R. Meyer.....	Los Angeles, California.
W. G. Kerckhoff.....	Los Angeles, California.
A. G. Wishon.....	Fresno, California.

The property which Lerdo Land Company owns has been divided into three tracts known as subdivisions "A," "B," and "C." In addition a townsite has been surveyed. This application is concerned only with subdivision "A," containing 4,161 acres and the townsite containing 596 acres, no property having been sold or water developed upon the remaining portions of the tract.

These lands were first placed on the market in December, 1912. The general price was \$150.00 per acre on ten years' time, payable in ten equal installments. Out of approximately 1,400 acres sold under contract, only about 330 acres are now in good standing, the contracts for the other acreage having been forfeited. The 330 acres now under contract are held by about ten individuals.

By a clause in its contracts of sale Lerdo Land Company has obligated itself to form mutual water companies upon its property, as the land shall be sold and fully paid for. To accomplish this Lerdo Land Company plans at some future time to divide its property into districts and to form a mutual water company in each district, the stock in said company to be issued to settlers upon the basis of one share of stock for each acre of land purchased and fully paid for.

On account of the small amount of land sold and the few settlers upon said land, and the fact that none of the land has as yet been fully paid for no mutual water companies have as yet been formed by Lerdo Land Company, but settlers have been furnished water at the rate of \$8.00 per acre per annum. Certain settlers for a time held contracts entitling them to water at \$4.00 per acre, but all of these contracts have been forfeited.

The present application is the outgrowth of an informal complaint as to Lerdo Land Company's water rates filed in February, 1915. Investigation by the Commission showed that Lerdo Land Company was performing the functions of a public utility, and it was accordingly directed to file tariffs with the Commission. Lerdo Land Company thereupon decided to form a second corporation, to be known as Lerdo Water Company, in order that the land company might be freed from the obligations of a public utility.

Lerdo Water Company was accordingly incorporated on September 22, 1915, with an authorized capitalization of 5,000 shares of capital

stock of the par value of \$25.00 per share, or a total par value of \$125,000.00. It is proposed that 4.995 shares of said stock shall be issued to Lerdo Land Company in payment for its water properties and the five remaining shares issued to directors. In exchange for this stock Lerdo Land Company not only agrees to transfer its water properties, but also agrees to make improvements from time to time so that the total value of the system will eventually amount to \$125,000.00

In order that the provisions of its contracts of sale may be complied with, it is proposed that as each purchaser of the land makes final payments and receives deed to his property, he shall also receive one share of stock in Lerdo Water Company for each acre of land, and thereafter when a sufficient number of settlers have located in any one district it is proposed that they shall surrender their stock in Lerdo Water Company and receive a like number of shares in a mutual company.

Pending the formation of mutual water companies, Lerdo Water Company proposes to furnish water to settlers at cost.

The property which Lerdo Land Company proposes to transfer to Lerdo Water Company consists of all the water properties now owned by Lerdo Land Company, including a small parcel of real estate surrounding each well, pumps, accessories, machinery, easements for rights of way for water ditches, etc.

Lerdo Land Company has drilled seven wells in subdivision "A" and two in the Lerdo townsite. These wells are equipped with pumps, etc. The company has also constructed a system of canals and ditches.

Witness for applicant testified that \$71,000.00 had been invested to date in this water system and that approximately \$125,000.00 would be necessary to complete the system so as to serve the entire tract adequately when settled.

At the hearing of the application Mr. H. T. Miller, a purchaser of land, appeared to protest against any action on the part of Lerdo Land Company which would in any way impair his contract rights, particularly as regards the formation of mutual water companies and the furnishing of water thereby.

It does not appear from the evidence that Lerdo Land Company is required by its contracts to form a mutual company or companies at the present time, none of the land having been fully paid for. It further appears that the formation of a mutual company at this time would be impracticable on account of the few and scattered settlers upon the land.

We are not convinced, however, that the formation of a new public utility corporation by Lerdo Land Company forms a solution of its problems. This Commission has always stood ready to assist the corporations of the State in separating their public utility business from

their other business where it is apparent that such separation would be advantageous to the public and to the corporations involved.

In the present case, however, it is proposed to form a new public utility corporation and issue \$125,000.00 par value of capital stock in order to serve water to ten or twelve individuals scattered over approximately 4,000 acres of land. This course appears to us to be neither economical nor necessary. Such a corporation can not hope to pay operating expenses for some years to come. Although Lerdo Land Company has agreed to assume certain of the financial obligations of the new company, we believe that these obligations will be more satisfactorily taken care of if Lerdo Land Company retains title to the property with full responsibility for its efficient operation.

A further difficulty in applicant's plan arises from the contracts entered into by Lerdo Land Company, for the formation of mutual water companies at some future date. At the present time Lerdo Land Company has outlined only in a most general way the manner in which it will proceed to separate Lerdo Water Company into mutual water companies, and the manner in which these mutual water companies will be operated. Without a more definite knowledge of the manner in which this separation will be accomplished we can not recommend the granting of this application. When applicant can come before this Commission with a definite plan for the formation of mutual water companies, or for the incorporation of a public utility company which can be reasonably expected to operate independently of Lerdo Land Company, we will be inclined to look with more favor upon this application. In the mean time we recommend that this application be dismissed without prejudice to its renewal at a later date.

ORDER.

Lerdo Land Company having applied to this Commission for authority to sell its water utility properties in Kern County, California, to Lerdo Water Company for 4,995 shares of stock of the par value of \$25.00 per share, and Lerdo Water Company having applied to this Commission for authority to purchase said property and to issue 5,000 shares of stock of the par value of \$25.00 per share, 4,995 shares to Lerdo Water Company in payment for its water utility properties and five shares for qualification of directors, and a hearing having been held, and it appearing to the Commission that for the reasons set out in the foregoing opinion, this application should be dismissed without prejudice.

It is hereby ordered that the application herein be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this 29th day of March, 1916.

DECISION NO. 3206.

IN THE MATTER OF THE APPLICATION OF SIERRA AND SAN FRANCISCO POWER COMPANY AND PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING A CERTAIN LEASE.

Application No. 2082.

Decided March 29, 1916.

Pacific Gas and Electric Company having installed certain electrical generating machinery and appliances in a steam generating plant of the Sierra and San Francisco Power Company under a lease which it desires to renew, applies jointly with the latter named company for such permission. Application granted.

George H. Whipple, of Chickering & Gregory, for Sierra and San Francisco Power Company.

Charles P. Cullen, for Pacific Gas and Electric Company.

REPORT OF THE COMMISSION.

This is an application on behalf of Sierra and San Francisco Power Company, hereinafter designated and referred to as the "Sierra Company," and Pacific Gas and Electric Company, hereinafter designated and referred to as the "Pacific Company," both of which are California corporations having the power to engage in the business of generating, manufacturing, transmitting, buying, selling, and dealing in electricity for light, heat and power in the State of California, and both of which are now and for some time past have been engaged in said business, for an order approving a certain lease signed by the applicants under the date of January 13, 1916, a copy of which, designated as Exhibit "A," is annexed to the application in the above entitled matter.

A public hearing was held in San Francisco on March 24, 1916. From the evidence it appears that the Sierra Company is the owner of a certain steam plant for the generation of electric energy, generally known as its "North Beach Steam Plant," situated on Western Addition Block No. 250, in the city and county of San Francisco; that the Pacific Company, under a certain contract, entered into between it and the Sierra Company, bearing the date of April 3, 1914, has installed in said steam generating plant certain electrical machinery, appliances and equipment used and useful for receiving electric energy.

This agreement between the Sierra Company and the Pacific Company will, in so far as it relates to the maintenance of said machinery, appliances and equipment in the said plant by the Pacific Company, terminate on April 4, 1916, and the Pacific Company will be required to remove said equipment from the steam plant unless said agreement shall be modified along the lines set forth in the proposed lease.

It further appears that the demands upon the Pacific Company for electric energy by the Municipal Railways of the city and county of San Francisco, the Panama-Pacific International Exposition during the post-exposition period, and its load requirements in the vicinity of the said plant, make it advantageous to the Pacific Company to maintain said machinery, appliances and equipment in said steam generating plant of the Sierra Company. The Pacific Company accordingly desires to lease from the Sierra Company for a term of five years, commencing April 4, 1916, all that portion of the generator room in the said steam power plant which is situated to the west of the Sierra Company's present equipment in said power plant and is now occupied, under said above mentioned agreement, by the Pacific Company, at an annual rental of \$3,000.00, one-half of which shall be payable in cash, in advance, upon the 4th day of April of each year during said term, the remaining one-half of which shall be applied by the Pacific Company in payment of \$1,500.00 worth of electric energy, which shall be sold by it to the Sierra Company during the then current year at rates from time to time in effect for the sale by the Pacific Company to the Sierra Company of such energy; it being further provided that the Sierra Company shall not have the right to cumulate any of such payments thereunder or to carry any amount unapplied during any year to any succeeding year.

The purported lease was signed by the applicants on January 13, 1916, without having obtained the authorization of this Commission to execute the same. It is true that it contains the following clause:

"It is mutually agreed by and between the parties hereto that they will forthwith make joint application to the Railroad Commission of the State of California for an order of said Commission authorizing the execution of this lease, which shall not become effective until such order shall be made by said Railroad Commission."

Under the provisions of section 51 of the Public Utilities Act, however, the purported lease is void; and we can not revive a void instrument. Under all the circumstances of the case it appears to us that the proposed lease will be advantageous to both the applicants, and we shall authorize the execution of a new lease embodying the material terms and conditions of the void lease.

ORDER.

Sierra and San Francisco Power Company and Pacific Gas and Electric Company, California corporations engaged in the business of generating, manufacturing, transmitting, buying, selling and dealing in electricity for light, heat and power in the State of California, having applied to this Commission for an order approving a certain lease as set forth in the foregoing opinion, and a public hearing having been held and it appearing for the reasons set forth in the foregoing opinion that

applicants should be authorized to execute a new lease similar to the lease heretofore illegally signed by them,

It is hereby ordered that Sierra and San Francisco Power Company and Pacific Gas and Electric Company be and the same are hereby authorized to execute a certain lease substantially in the words and figures of the purported lease signed by applicants on January 13, 1916, a copy of which marked Exhibit "A," is annexed to the application in the above entitled matter.

The authority herein granted is granted subject to the following conditions and not otherwise:

1. The lease herein authorized shall not be executed later than May 31, 1916.

2. Within thirty days after the execution of said lease, applicant shall file a copy of the same with this Commission.

Dated at San Francisco, California, this 29th day of March, 1916.

DECISION No. 3207.

IN THE MATTER OF THE APPLICATION OF MARIN COUNTY ELECTRIC RAILWAYS FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE CONSTRUCTION AND OPERATION OF A STREET RAILWAY SYSTEM IN MILL VALLEY, AND FOR AUTHORITY TO ISSUE STOCK AND BONDS.

Application No. 947.

Decided March 29, 1916.

Applicant was heretofore authorized by the Commission to issue stock, the sale of which was limited to residents of Mill Valley only who would benefit from the construction of the proposed street railway in other ways than through dividends. Applicant now applies for permission to sell such stock to other than residents of Mill Valley, and it appearing that the town trustees of such city are taking steps to revoke the franchise which applicant holds, owing to its inability to fulfill the terms thereof, application denied.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

EIGHTH SUPPLEMENTAL OPINION.

In this supplemental application Marin County Electric Railways asks for a modification of this Commission's Decision No. 1377 (Vol. 4, Opinions and Orders of the Railroad Commission of California, page 503), and for authority to sell stock to persons other than residents and property owners in Mill Valley.

The history of this enterprise is in brief as follows:

On January 17, 1914, Marin County Electric Railways applied to this Commission for a certificate that public convenience and necessity

required the construction and operation of three and one-half miles of street railway in Mill Valley, Marin County, under a franchise granted by the town of Mill Valley. The company further applied for authority to sell \$50,000.00 of stock and \$60,000.00 of bonds for the purpose of constructing its proposed line. This application was afterwards amended and authority asked to issue \$75,600.00 of stock and no bonds.

The Commission on March 26, 1914, issued an order granting the company a certificate of public convenience and necessity and authorizing the issue of \$67,000.00 of stock under certain restrictions.

In its decision the Commission stated that this project must be regarded in the nature of a promotion enterprise, and that purchasers of stock must share not only in the hope of reward but in the responsibility for loss as well. For this reason the Commission stated that it would not consent to securities being sold broadcast to small investors. It stated, however, that if the people who would be benefited by the railway service believed that such benefit would warrant the assumption by them of the financial obligations involved, it would not be inclined to deny the railway the right to sell stock to them. Accordingly, the company was granted permission to sell its stock only to "bona fide residents of Mill Valley or to property owners in Mill Valley."

Thereafter Mr. Hicks, the promoter of the enterprise, filed an application with the Commission representing that the above condition precluded him from purchasing stock and asking that an exception be made in his case. This application was granted, and Mr. Hicks was given the privilege of buying such additional stock as he desired in the enterprise.

Although applicant succeeded in obtaining a considerable number of stock subscriptions, it did not succeed in collecting sufficient sums to begin work on its line as originally projected, the Commission's order having provided that \$35,000.00 in cash should be on hand before construction work was started. Finding itself unable to raise this amount, applicant came to the Commission with a request that this restriction be modified, and that it be allowed to begin the construction of one mile of line on Throckmorton avenue from the Northwestern Pacific depot toward the Cascades.

Applicant represented that it had stock subscriptions applicable to the construction of this unit amounting to approximately \$20,000.00. On this representation the company was given authority to proceed. It now appears that of the \$20,000.00 subscribed, the company succeeded in collecting approximately \$5,000.00, with which it laid one-third of a mile of track and completed about three-fourths of a mile of trench. This exhausted the company's funds, and as more money was not forthcoming from stock subscriptions it was compelled to stop work.

The board of trustees of Mill Valley on October 25, 1915, granted the company an extension of four months on its franchise. This four months extension has now expired and the town of Mill Valley has recently filed with the Commission copies of resolutions adopted by its board of trustees requesting the Attorney General of the State of California to bring suit for forfeiture of the railway company's franchise. The town of Mill Valley has also taken steps to collect from Marin County Electric Railways and its surety the amount of the bond filed at the time of the granting of the franchise.

In view of the facts as herein presented, it appears that this application of Marin County Electric Railways for authority to sell stock to other than bona fide residents or property owners in Mill Valley should be denied.

I accordingly submit the following supplemental order:

EIGHTH SUPPLEMENTAL ORDER.

Marin County Electric Railways having applied to this Commission for authority to sell its stock to persons other than residents and property owners in the town of Mill Valley, Marin County, and it appearing to this Commission that for the reasons set forth in the foregoing supplemental opinion this application should be denied,

It is hereby ordered that the supplemental application of Marin County Electric Railways filed with this Commission on December 3, 1915, requesting authority to sell stock to other than bona fide residents and property owners of Mill Valley be and it is hereby denied.

Dated at San Francisco, California, this 29th day of March, 1916.

DECISION NO. 3208.

IN THE MATTER OF THE APPLICATION OF BOARD OF SUPERVISORS OF THE COUNTY OF SISKIYOU FOR AUTHORITY TO ESTABLISH A ROAD FROM THE TOWN OF HILT, TO CONNECT WITH THE CALIFORNIA STATE HIGHWAY NEAR THE OREGON LINE, SAID ROAD TO CROSS THE TRACKS OF CENTRAL PACIFIC RAILROAD COMPANY.

Application No. 2042.

Decided March 29, 1916.

Applicant applies for permission to construct a crossing at grade over the tracks of Central Pacific Railroad Company in connection with a proposed road running from the town of Hilt to the state highway, and it appearing that there is at the present time a connecting road between these two points, and that the proposed crossing if constructed would be dangerous to railroad operation and a menace to the public using same, application denied without prejudice.

James M. Allen, district attorney, for Board of Supervisors.

J. E. Baker, for Southern Pacific Company.

Taylor & Tebbe, by *Geo. A. Tebbe*, for Fruit Growers' Supply Company.

REPORT OF THE COMMISSION.

This is an application under section 2694, Political Code, for authority to establish a public road crossing at grade over the tracks of the Southern Pacific Company's main line from San Francisco to Portland.

The proposed crossing is located near Hilt, a town about seven and one-half miles south of the Oregon line, and is part of a proposed road to connect the town with the state highway about a mile to the east. There is at present a county road to the southeast over Bailey Hill, which, because of rough ground, crosses the railroad tracks twice with dangerous crossings, and connects with the state highway some three miles from Hilt.

The crossing applied for is 1,252 feet southerly from the present private grade crossing at the north end of the railroad station. This private crossing is used by practically everyone in Hilt, as it connects the lumber plant, county road and station with the store, post office, and residence part of town. There is also a private road leading from it to the state highway, about half of the distance being over substantially the same route as the survey of the proposed road. This private road is occasionally traveled by teams, but is practically impassable for automobiles.

The town of Hilt, with its present population of some 400 or 500 people, depends almost entirely on the lumber industry. All the town-site, including the streets and all of the dwellings and buildings, except the railroad station and a saloon, are owned by the Fruit Growers' Supply Company. This company is anxious to keep its property as isolated as possible, principally on account of fire risks and labor troubles. The streets and grade crossing have therefore been kept private.

The Southern Pacific Company operates four passenger trains and two freight trains through Hilt each way every day with occasional extra freight trains. The Shasta Limited and two through freight trains pass through Hilt at high speed in order to gain momentum with which to climb the adverse grades ahead of them, Hilt being located near the low point between these grades. All other trains slow down or stop at Hilt. The local or way freights which do switching at Hilt, are due at 10.40 p.m. and 1.10 a.m.

It is anticipated that a great deal of travel will come in from Oregon over the proposed road, as Hilt is the first town south of Ashland that has a store and saloon.

The local travel to be accommodated is very light, consisting of about six or eight automobiles and teams from Hilt and some half dozen teams and automobiles belonging to the ranchers living along Cottonwood Creek, just southwest of Hilt. These ranchers and prospectors and miners in the hills to the west trade principally at Hornbrook, eleven miles south of Hilt, using the county road, over the two dangerous Bailey Hill crossings to the state highway. Everyone appears anxious to close these crossings and the county contemplates building an additional county road down Cottonwood Creek to Hornbrook in order to eliminate them. Although the merchants of Hornbrook have offered considerable financial aid in behalf of this road, there appears no likelihood of its being built within two years time.

From the testimony submitted, we think a careful investigation might show that the present county road could be carried to the southwest of Bailey Hill and parallel with the railroad, straightening the road, shortening the distance from Hilt and eliminating the two dangerous crossings at Bailey Hill. It is quite possible that such an improvement could be made for less than the \$2,200.00 which the viewers estimate as the cost of the proposed road over the crossing applied for. It appears from the testimony that the two dangerous crossings at Bailey Hill would remain open even if the crossing applied for were granted and the new road built. Comparing distances over the proposed road with these over the county road by Bailey Hill, we find the distance from Hilt to the state highway will be shorter by about two miles; the distance to Hornbrook will be longer by about a mile, and the distance to Ashland will be shorter by about three miles.

The crossing applied for is located in a dangerous situation from the point of view of railroad traffic, it being only 155.8 feet south of the switch to the supply company's spur. If a long freight train were standing on the passing track while switching was being done at the supply company's spur, the standing train would have to be cut at the crossing. Switching would then be done on the main line and spur behind cars and out of sight of any one approaching the crossing from the east within 125 feet of it. Approaching the proposed crossing from the west, the view to the south would be almost entirely cut off by high ground and the view to the north from the west side would be more or less obscured by the station and warehouse and such cars as might be standing on the supply company's spur tracks. The Commission's engineer made a careful investigation on the ground and a full report.

The supply company is willing to give a right of way over a small point of its land for the road to be built in connection with this crossing, but declined to grant a right of way to the county and to make public the present private and much traveled crossing at the station, which would be the desirable location from all other points of view. The

railroad company is willing to allow the use of a 34-foot strip of its right of way as a road to connect the proposed road as surveyed with the present crossing at the station, if the supply company will grant the use of the crossing. This would do away with the need of the crossing applied for and eliminate the dangerous Bailey Hill crossings. If more space were needed it would favor cancelling its lease to the supply company for part of its right of way on which the store and planked roadway adjoining it are located, rather than have an additional grade crossing. It is opposed to the proposed additional crossing because of danger of accidents, interference with its service, and the absence of public necessity.

The Commission is now engaged in a careful study of all dangerous grade crossings in the State, and is taking necessary steps to make them as safe as possible until it may become practicable to generally separate grades at railroad crossings. The establishment of an additional crossing at Hilt or in its vicinity under the circumstances here presented, would be entirely contrary to such a movement. The application should be denied.

ORDER.

Board of Supervisors of Siskiyou County having filed with the Railroad Commission petition to said board by certain residents requesting the location of a public highway across the tracks of Southern Pacific Company at grade near Hilt, Siskiyou County, and a public hearing having been held thereon and it appearing that a single outlet from Hilt to the state highway is sufficient, and that the public convenience which would be served by the crossing applied for does not outweigh the added hazard and risk both to the users of the proposed road and to the carrier, and that the safety of the traveling public would be further jeopardized thereby.

It is hereby ordered that the application be and it is hereby denied without prejudice.

Dated at San Francisco, California, this 29th day of March, 1916.

Decision No. 3209, grade crossing; not printed. See end of volume.

DECISION No. 3210.

IN THE MATTER OF THE APPLICATION OF THE CITY OF SAN DIEGO FOR PERMISSION TO CONSTRUCT LITTLEFIELD STREET AT GRADE ACROSS THE TRACKS OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AND THE LOS ANGELES AND SAN DIEGO BEACH RAILWAY COMPANY.

Application No. 1629.

Decided March 29, 1916.

Applicant having been heretofore denied permission to construct Asher street at grade across the tracks of Santa Fe Railway and San Diego Beach Railway,

applies for permission to construct Littlefield street at grade across the tracks of the two companies mentioned, and it appearing that the traffic using the proposed crossing will be principally pedestrians, application granted.

S. J. Higgins, for Applicant.

M. W. Reed, for The Atchison, Topeka and Santa Fe Railway Company.

REPORT OF THE COMMISSION.

This application filed with the Commission on April 16, 1915, is an outgrowth of Application No. 1112, which was decided by the Commission on January 13, 1915 (Vol. 6, Opinions and Orders of the Railroad Commission of California, page 42). In that application the city of San Diego asked for an order authorizing the construction of Asher street at grade over the tracks of The Atchison, Topeka and Santa Fe Railway Company, and although the Commission denied that application on the ground that the proposed crossing would be dangerous it held that public convenience and necessity required a crossing in this vicinity and suggested Littlefield street, for which application is now made, as being the proper location for a crossing.

The opinion in that order described the location of Littlefield and adjacent streets in their relation to the tracks of the two railroads involved in this application and it will not be necessary to repeat that description in this opinion; neither will it be necessary to consider the public necessity of this crossing, since it was stipulated that the record made in Application No. 1112 should apply in this proceeding. There remains for discussion the necessity for protecting these crossings.

The crossing of the Los Angeles and San Diego Beach Railway is open in both directions along the track for a considerable distance and no protection will be needed for it other than the usual crossing sign, as the traffic over this crossing will be lighter than that over the Santa Fe and that will not be considerable. It will consist principally of pedestrian traffic to and from the station of the Los Angeles and San Diego Beach Railway with probably little vehicular traffic for some time to come. The curve and cut on the Santa Fe track to the south of Littlefield street, mentioned in the order in Application No. 1112, will obscure the view of trains approaching from that direction and it is possible that when a train is on the passing track, which is east of the Santa Fe main line and is also to be crossed, the view of those approaching the crossing from the east will also be obstructed to the north.

The Santa Fe Company desires to have the crossing protected by a flagman, and we should be inclined to order such protection installed if vehicular traffic over this crossing were to be extensive, but it seems unnecessary to require it at this time when traffic will be principally pedestrian. The Commission should, however, reserve the right to order protection at any time and apportion the expense between the interested parties as it deems fair.

ORDER.

City of San Diego having applied to the Commission for permission to construct Littlefield street at grade across the tracks of The Atchison, Topeka and Santa Fe Railway Company and the Los Angeles and San Diego Beach Railway Company, and a public hearing having been held and it appearing that this application should be granted subject to certain conditions,

It is hereby ordered that the City of San Diego, San Diego County, California, be and the same is hereby granted permission to construct Littlefield street at grade across the tracks of The Atchison, Topeka and Santa Fe Railway Company and the Los Angeles and San Diego Beach Railway Company, at the place shown on the map attached to the application, subject to the following conditions, viz:

(1) The crossings shall be constructed of a width of not less than twenty (20) feet, with grades of approach not exceeding four (4) per cent; shall be protected by suitable crossing signs, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(2) The entire expense of constructing these crossings shall be borne by applicant.

(3) The railroad companies shall each maintain the crossing of its tracks between the rails and to a distance of two feet outside thereof. Applicant shall maintain the crossings to a line two feet outside of the rails of the tracks thereof.

(4) The Commission reserves the right to order further protection for these crossings at any time and to apportion the expense thereof between the interested parties in any manner that appears to it to be fair and equitable.

(5) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance, and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

Dated at San Francisco, California, this 29th day of March, 1916.

DECISION No. 3211.

IN THE MATTER OF THE APPLICATION OF PEOPLES WATER COMPANY FOR REORGANIZATION.

Application No. 1531.

Decided March 30, 1916.

In the original order in the above entitled proceedings, the sum of \$14,100,000.00 was found as representing the value of the properties of Peoples Water Company upon which a new corporation was authorized to issue \$8,400,000.00 face value of bonds and \$8,640,000.00 par value of stock. Holders of applicant's securities could not reach a final agreement under the provisions of such order and an amended petition was filed which provided for the issuance of \$9,128,000.00 face value of first mortgage 5½ per cent bonds and \$8,000,000.00 par value of stock. It is proposed to divide the stock into three classes, preferred classes A and B and common.

Held, Considering the valuation found for these properties and the earnings of the company during the last year, the issuance of three classes of stock would not appear to be a sound method of financing, for, after apportioning the bonds and two classes of preferred stock, no assets would be left subject to the common stock. That in a reorganization, such as here under consideration, new securities must be issued upon a reasonable foundation of assets, which would not be the case should the common stock herein petitioned for be authorized in the form proposed. Taking into consideration the company's needs for future financing for betterments and improvements, two classes of stock only are warranted, and though the full par value as applied for will be authorized, its segregation is so recommended.

Held, Peoples Water Company authorized to transfer all of its properties to a company to be hereafter organized to be known as the East Bay Water Company and the latter named company in consideration therefor, is authorized to issue \$9,128,000.00 face value of bonds and \$7,400,000.00 par value of stock and such additional stock as may hereafter be authorized by supplemental order. None of such stock or bonds to be issued until the East Bay Water Company shall have filed and had approved its proposed deed of trust, articles of incorporation, and further details of reorganization expenses.

Peoples Water Company or East Bay Water Company authorized to transfer its water properties to city of Oakland, or other municipal corporation or water district, under the plans set out in the proposed reorganization agreement, in connection with which the Commission holds that it is greatly to the advantage of a municipality to own its own water system, that as the present company has proven its inability to provide necessary extensions and facilities it is incumbent upon the officials of the East Bay District to consider plans for the acquisition of this system, such procedure being the safest and surest means of providing an adequate and efficient water supply to the district which it serves.

REPORT OF THE COMMISSION.

EEGERTON, *Commissioner*.

FIRST SUPPLEMENTAL OPINION.

This Commission has heretofore, on July 10, 1915, Decision No. 2586 (Vol. 7, Opinions and Orders of the Railroad Commission of California, page 597), authorized Peoples Water Company to transfer all of its

properties to a corporation, to be hereafter organized, in consideration of the issue and delivery by the new corporation of \$8,400,000.00 face value of bonds, bearing interest not to exceed 6 per cent per annum, and \$8,640,000.00 par value of stock. It was proposed that the bonds and stock thus issued by the new corporation should be distributed according to a specified plan to the existing bondholders, noteholders, and stockholders of Peoples Water Company.

The order of the Commission approved the issue of the stocks and bonds in the amounts as prayed for. Thereafter, on January 31, 1916, Peoples Water Company filed an application for a modification of the Commission's decision heretofore rendered in this matter. In this petition Peoples Water Company asks for authority to transfer all of its properties to a new corporation, to be called "East Bay Water Company," and requests that East Bay Water Company be authorized to execute a mortgage and to issue to Peoples Water Company, in consideration for the properties transferred, \$9,128,000.00 of first mortgage thirty-year $5\frac{1}{2}$ per cent bonds and \$8,000,000.00 par value of stock.

In a consideration of the supplemental application herein, it will be unnecessary to review the circumstances which have brought Peoples Water Company to its present condition or to set forth the details in regard to its present status, and the value of its assets. Those matters are covered in the decision heretofore referred to, No. 2586.

A general statement of this supplemental application would indicate that it varies in only minor degree from the original application in this matter. Such is not the fact, however. There is a wide difference in certain important particulars. The present supplemental application was inspired by the failure of the various classes of security holders to agree among themselves on the plan originally submitted by them and approved by this Commission. These security holders have, to a very large degree, adjusted their differences, and join in the supplemental application now before the Commission.

While the original plan proposed the issue of \$8,400,000.00 of bonds and \$8,640,000.00 par value of stock, and the present plan proposes an issue of \$9,128,000.00 of bonds and \$8,000,000.00 of stock, there is the important variation that the original plan contemplated a single class of stock, whereas the amended plan calls for three classes of stock. The original plan provided for an issue of stock to the owners of Peoples Water Company bonds, whereas the amended plan calls for an issue of \$700,000.00 of bonds to these Peoples Water Company bondholders in addition to an allotment of stock.

The proposal here under consideration for the issue of stock and bonds by East Bay Water Company may be summarized as follows:

Bonds.

To issue to the holders of the \$5,600,000.00 of divisional or underlying bonds of Peoples Water Company an equal amount of new bonds of East Bay Water Company in the sum of-----	\$5,600,000 00
To issue to the holders of Peoples Water Company collateral notes, bonds of the new company equal to the face value of such notes not to exceed-----	2,300,000 00
To issue to the holders of Peoples Water Company bonds, an amount of bonds of the East Bay Water Company sufficient to take care of unpaid interest on such bonds, of a total not to exceed -----	700,000 00
To issue bonds to be used to provide for unpaid interest on underlying or divisional bonds -----	308,000 00
To issue bonds to retire purchase money mortgages -----	220,000 00
Total -----	\$9,128,000 00

Stock.

To issue to the holders of Peoples Water Company bonds, Class "A" 6 per cent cumulative preferred stock of East Bay Water Company equal to one-half the face value of such Peoples Water Company bonds -----	\$3,700,000 00
To issue to Peoples Water Company bondholders, Class "B" preferred stock equal to one-half the face value of such Peoples Water Company bonds -----	3,700,000 00
To issue to present stockholders of Peoples Water Company, common stock of East Bay Water Company-----	600,000 00
Total -----	\$8,000,000 00

It is proposed that the bonds shall mature in thirty years, shall bear interest at the rate of $5\frac{1}{2}$ per cent per annum, and shall be issued under a mortgage or deed of trust providing for a total issue of \$15,000,000.00 and restricting the issue of new bonds to 80 per cent of the cost of necessary capital additions.

The amended plan proposes further that the Class "A" and Class "B" stock to be issued by East Bay Water Company shall be linked in a single certificate, so that each share of such Class "A" stock shall be joined in a certificate with a like share of Class "B" stock. It is provided that these shares shall be thus tied together until the Class "B" stock shall, for a period of three years, have earned and received a 6 per cent annual dividend.

All of the stock is to be pooled under an agreement which places it in trust under the direction of a trustee for five years from January 1, 1916. It is further provided that the trustee shall vote the stock for thirteen directors whose names are specified as follows, these directors to serve for a period of five years: Harry E. Bothin, P. E. Bowles, J. F. Carlston, William Cavalier, George H. Collins, John S. Drum, J. Y.

Eccleston, Robert M. Fitzgerald, Stuart S. Hawley, E. A. Heron, Percy T. Morgan, Frank Otis, F. W. Van Sicken.

These men have been selected by the various interests involved.

That the new plan has the endorsement of nearly all of the outstanding security holders, is indicated by the following statement submitted at the hearing, which shows the total face value of each class of securities outstanding and the amount deposited in accordance with the plan here proposed:

	Total Issued	Total deposited
Contra Costa Water Co. first mortgage bonds.....	\$2,000,000 00	\$1,986,000 00
Contra Costa Water Co. general mortgage bonds.....	1,000,000 00	976,000 00
Oakland Water Co. bonds.....	1,500,000 00	1,413,000 00
East Shore Water Co. bonds.....	500,000 00	485,000 00
Alameda Artesian Water Co. bonds.....	600,000 00	592,000 00
Total underlying	\$5,600,000 00	\$5,482,000 00
Peoples Water Co. general mortgage bonds.....	7,400,000 00	6,850,000 00
Peoples Water Co. notes.....	2,300,000 00	2,115,157 50

While I believe the original plan as submitted, providing for an issue of \$8,400,000.00 face value of bonds and \$8,640,000.00 par value of stock, representing but a single class of such stock, was sounder in principle and calculated to prove of greater advantage to this utility, to all classes of its security holders and to the public than the present amended plan, I nevertheless believe that the supplemental proposal is both reasonable and sound as to its general character. Some of the details, however, should be changed.

Taking a valuation of the properties of Peoples Water Company of \$14,100,000.00, as heretofore found, for the purposes of this proceeding and adding thereto the sum of \$400,000.00, representing the cash on hand, the total available assets appear as \$14,500,000.00.

On a basis of this valuation and on the company's past and present earnings and future prospects, a bond issue of \$9,128,000.00 may well be predicated. It is a simple matter to apportion the residual assets among the holders of one class of stock, but in this instance it is intended to split the stock three ways and at once the financial fabric assumes a wholly new aspect. It is apparent that ample assets remain to provide for the issue of \$3,700,000.00 of Class "A" 6 per cent cumulative preferred stock. With the bonds and preferred stock assumed on a par basis, the sum of \$1,672,000.00 remains for apportionment among the \$3,700,000.00 of Class "B" stock and the \$600,000.00 of common stock. It is immediately apparent that the \$600,000.00 of common stock is left in an exceedingly doubtful or wholly negative position as to assets. An analysis of the company's revenues brings a similar conclusion as to the relation of this common stock to earnings.

As the original plan and the amended plan include something for the present stockholders of Peoples Water Company, it is apparent that the security holders of Peoples Water Company deem it equitable that some participation be allotted to the present stockholders of that company.

In the original plan this participation took the form of a limited amount of stock, which had the effect of placing these holders of Peoples Water Company stock on a parity as far as the class of their beneficial interest in the new corporation was concerned, with the Peoples Water Company bondholders, the relative positions being adjusted by the amount of stock apportioned to each.

I am convinced that a more satisfactory method may be devised of meeting the equities, as far as the holders of the stock of Peoples Water Company are concerned, than the medium of a common stock of such doubtful character as is here suggested.

In the reorganization of a utility of such a character as the one here under consideration, the new securities and stock should be issued upon a proper foundation of assets or earnings. For this Commission to approve a \$600,000.00 issue of common stock as here requested, would violate all the sounder principles of conservative finance.

Whatever it is intended to convey to these stockholders of Peoples Water Company may be reduced to a measure of value and expressed in terms of a stock resting upon substantial assets.

Under the plan here proposed, the following issues precede this stock:

Bonds	\$9,128,000 00
Class "A" preferred stock.....	3,700,000 00
Class "B" preferred stock.....	3,700,000 00
Total	<u>\$16,528,000 00</u>

These issues it is proposed to place upon the property heretofore estimated to be of the value of \$14,500,000.00. It is apparent, of course, that nothing is left for the common stock. This condition arises because of the arrangement which cuts the stock into three divisions. It is necessary, of course, in any general distribution, to exhaust the equity in each class of stock before making an apportionment for the next succeeding class. This would exhaust the assets before the common stock is reached. If, however, the stock were of a single class or of two classes, assets would be available for apportionment among all.

If the \$600,000.00 of common stock is eliminated, the preference which it is now proposed to attach to the Class "B" stock would be nullified. With only preferred and common stock nothing is to be gained by tying them together.

In authorizing the issue of stock it will be essential to hold in mind the efficiency of this utility as an operating company, the rights and

interests of the security holders of Peoples Water Company, and the public welfare.

Throughout the proceedings emphasis has been placed upon the need of expansion, immediate and elaborate, of the water facilities in the communities of Alameda and Contra Costa counties served by Peoples Water Company. Any extensive program of construction or improvement can be carried forward with greater facility, safety, and with smaller ultimate cost when there is present the ability to finance through stock as well as through bonds.

All concerned agreed that the requirements of the communities demanded improvements and extensions of the water facilities which would cost upward to \$9,000,000.00.

Such improvements and extensions could be financed primarily by an issue of bonds. Under the deed of trust which it is proposed shall be executed by East Bay Water Company, it will be entitled to issue bonds up to 80 per cent of the cost of these additions, leaving a margin of 20 per cent to be taken care of from some other source. The sponsors of the plan of reorganization stated that this secondary financing to take care of the 20 per cent not covered by bonds could be met through the use of the net earnings of the new company.

The earnings statement submitted for the year 1915 indicates net revenues, after the payment of the dividend on the Class "A" preferred stock, of approximately \$150,000.00. I do not believe that the earnings of this company at this time are such that we may rely wholly upon this source to furnish the revenues for this secondary financing, particularly when it is also in testimony that it is proposed to pay the 6 per cent dividend on the Class "A" preferred stock.

It would place a demand, heavier, I believe, than the facts warrant, upon these net earnings to expect them to provide for the payment of fixed charges, the maintenance of an adequate depreciation reserve, for the distribution of dividends on the Class "A" preferred stock and perhaps for the discharge of sinking fund obligations, and in addition for the auxiliary capital necessary to carry forward the extensive program of immediate development. If this development entails an expenditure of \$9,000,000.00, 20 per cent, or \$1,800,000.00, would be imposed upon these net earnings over a period of a few years.

I do not believe it is safe or reasonable to look to the revenues for such a sum.

I am, therefore, of the opinion that in any reorganization of Peoples Water Company properties, a way should always be left open for further financing through stock.

I believe that it would be to the interest of all concerned that the Class "A" and Class "B" preferred stock should be issued upon separate certificates, each to stand on its own footing. With the common

stock eliminated, the Class "B" will naturally become the common, and its preferential attributes will vanish.

With preferred stock available for sale, I believe an immediate and ready avenue would be at hand through which to obtain some or all of the 20 per cent of new capital necessary for the proposed additions and betterments. I believe the East Bay Water Company could readily finance itself through the sale of its bonds for 80 per cent of the cost of improvements and the sale of preferred stock for the remaining 20 per cent.

The position of these stocks may be more clearly presented by an analysis of the earnings of Peoples Water Company for the calendar year ending December 31, 1915. The company presents the following statement:

Operating revenue—Water	\$1,640,714 72
Expenses—Operating :	
Pumping	\$159,168 69
Distributing	83,040 45
Commercial	70,773 64
General	158,294 11
Taxes	189,871 14
Total operating expenses.....	661,148 03
Net operating revenue	\$979,566 69
Net non-operating revenue	46,182 15
Net revenue—total	\$1,025,748 84
This analysis may proceed as follows:	
Net earnings as reported for year ending December 30, 1915	\$1,025,748 84
Assuming depreciation to be approximately.....	150,000 00
Balance	\$875,748 84
Five and one-half per cent interest on \$9,128,000.00 of bonds	502,040 00
Balance	\$373,708 84
Six per cent dividend on Class "A" preferred stock.....	222,000 00
Balance available for dividends on \$3,700,000.00 of Class "B" stock and \$600,000.00 of common stock.....	\$151,708 84

In the amended presentation heretofore noted, it is arranged that the stock shall be placed in trust for a period of five years. In its original decision in this matter the Commission expressed its belief that the stockholders should have all of the power and control to which their ownership entitles them. I can only repeat my conviction in this matter. But the stockholders having agreed to surrender a portion of their rights, this Commission should not under the circumstances in this case interpose further objection.

Under the amended plan as presented, the city of Oakland, a water district or other municipal corporation, is given a year's option to

purchase the water properties under certain specified terms, for \$14,100,000.00.

This proposal is set forth as follows in the plan of reorganization to which the security holders have assented:

“Without affecting any pending action towards reorganization in private ownership, all persons becoming parties to the modified plan will agree that the properties of the Peoples Water Company or the East Bay Water Company may be acquired by the city of Oakland or a water district or other municipal corporation desiring to supply the community or any of the communities now supplied by the Peoples Water Company with water before January 1, 1917, at the sum of \$14,100,000.00, plus such sum of money as may have been expended in betterments and extensions and acquisition of new property since January 1, 1915, and plus such sum of money as shall be equal to the value of any material on hand, less such sum of money as the company may have obtained from the sale of any property. And in the event of sale, the company shall retain its cash, accounts and bills receivable, and other personal property exclusive of material on hand, but shall pay its bonded and floating debts and all its operating and current expenses to the day of transfer, and no other obligations, except those properly incurred after the date of transfer.

“In order that this offer may be carried out, the legal title to all stocks in the East Bay Water Company shall be vested until January 1, 1917, in a trustee; and in case of such sale it shall be the duty of the trustee under the deed of trust securing the first mortgage bonds, to declare all bonds due and payable, provided that there be deposited with such trustee, or definite arrangements be made with such trustee for the deposit of a sum of money sufficient to discharge in full the principal and accrued interest of the first mortgage bonds hereafter mentioned. The balance of the purchase price shall be distributed to the holders of stock in accordance with the respective rights given to the stock as below provided.”

A method is also proposed for the distribution of the money in case of such sale, to the various parties in interest, in which the sum of \$400,000.00 is made available for the present stockholders of Peoples Water Company. We need not here concern ourselves with the distribution of such moneys as may be received from such sale, except to indicate that the elimination of the common stock will, under the contract, result in the \$400,000.00 becoming payable to the present holders of preferred and common stock of Peoples Water Company.

The Commission is concerned with the proposal to sell this water plant to the city of Oakland, a water district or other municipal corporation, as such sale can only be made upon the authorization of this body.

The Commission will readily give its approval to the sale of these properties to the city of Oakland or a water district. It has heretofore

stated its belief that this whole water problem can best be solved by the acquisition of these water properties by the city of Oakland or a district comprising the territory now served by Peoples Water Company. This statement was made before there had been any direct tender.

The matter now comes before the Commission in the form of a definite and concrete proposal to dispose of these properties to the public. The purpose, as I understand it, is to give the public one year in which to determine whether it will acquire these properties at the price named.

I can not leave this subject without directing the attention of the public officials of Oakland, Berkeley, Alameda, and Piedmont, and the citizens of these communities, to the unusual circumstance that now confronts them. They have long complained of inadequate water facilities. In fact, the Peoples Water Company itself has admitted the inadequacy of its service. These communities have been growing with rapid pace, and it may be reasonably expected that their population will increase in even augmented ratio. It is an axiom that complete water service is the first essential to proper municipal development. It was, in fact, in part this very growth which brought Peoples Water Company into its present condition. It could not command the finances to keep pace with the growth of the territory, and was wrecked in the effort.

There is practically unanimity in the belief that all larger communities should own their own water supplies. In fact, there are very few large cities in the United States where this rule does not hold. San Francisco and Oakland are conspicuous exceptions. I have no hesitation in saying, therefore, that Oakland and its neighboring cities will never solve their water problem until they own and operate their own water systems.

This offer to sell for the sum of \$14,100,000.00, made in good faith, should receive the very earnest consideration of the public officials whose duty it is to provide for the welfare of their communities.

In the figures heretofore given it has appeared that the earnings of Peoples Water Company for the year 1915, after a deduction for depreciation, amounted to \$875,000.00. If we assume that the city of Oakland or a water district desired to acquire these properties and issue \$14,100,000.00 of bonds which would command, at the prevailing rate of Oakland city bonds, not more than 4½ per cent, we would have the following result:

Net earnings of plant	\$875,000 00
Interest on \$14,100,000.00 of bonds, \$599,250.00, or in round numbers	600,000 00
Making an annual balance of	\$275,000 00

It appears, therefore, that on the present basis of rates, the city of Oakland or a water district assuming all charges as they now are, could issue its bonds for the properties and thereafter operate the system at such a profit that it could not only pay all the interest on these bonds, but earn a surplus of \$275,000.00 a year. This would be sufficient to retire the whole bond issue in fifty years.

In case such a purchase were consummated, the public body making the acquisition would be called upon to provide the additional funds necessary to a full development of the water supply. It may safely be assumed, however, that the growth in territory and population would be sufficient to provide the additional earnings necessary to insure the profitable operation of the plant. There is, of course, the further consideration that such of the land as was not useful for the water service could be sold, thus relieving the water properties from a part of the cost.

The Peoples Water Company reports \$400,000.00 of cash on hand and it is stated that a portion of this sum will be used to defray reorganization expenses and certain other liabilities. As it has been urged upon the Commission that all of the assets of this company should be conserved as far as may be, to provide for additions and betterments to its facilities, and as attached order contemplates the existence of such assets in the sum of \$400,000.00, I recommend that such order provide as a condition that money may be paid out of this fund for reorganization and kindred expenses only after they have been approved by this Commission.

It will be necessary also for applicant to outline and submit with the least delay a complete plan of water development, so that this Commission may be assured that any reorganization has in mind the increase of these water facilities for the service of the communities they serve, or neighboring communities which it may be desirable for them to serve.

Neither the deed of trust under which the bonds are to be issued nor the articles of incorporation of East Bay Water Company have been submitted, and any authorization will be, of course, dependent upon their approval by this Commission.

I shall not at this time pass finally upon the exact nature of the stock to be issued, but shall recommend the authorization of \$7,400,000.00 of stock requested, leaving it to the applicant to amend its plan and to re-classify its stock in a manner upon which all parties in interest may agree. Thereafter, upon the presentation of this amended form of stock issue, the Commission may issue a supplemental order, authorizing the issue of stock in lieu of the \$600,000.00 of common stock herein requested.

Upon the basis of the foregoing, I recommend the following form of order:

FIRST SUPPLEMENTAL ORDER.

Peoples Water Company having applied to the Railroad Commission of California for an order authorizing the transfer of its property to a corporation, to be hereafter formed and to be known as "East Bay Water Company," and for an order authorizing the issue of stock and bonds by such corporation,

And Peoples Water Company having applied also for an order authorizing the transfer of its properties by it or East Bay Water Company to the city of Oakland, a water district, or other municipal corporation,

And a public hearing having been held, and the Commission being fully advised in the premises,

It is hereby ordered by the Railroad Commission of the State of California that Peoples Water Company be and it is hereby granted authority to transfer and convey all of its property, real, personal, and mixed, to a corporation to be hereafter organized, to be known as "East Bay Water Company," in consideration for the issue and delivery by said new corporation of bonds which shall be a first lien upon all of its property, in an amount not to exceed \$9,128,000.00, said bonds to bear interest not to exceed $5\frac{1}{2}$ per cent per annum, and in consideration further for the issue and delivery by said new corporation of stock of the par value of \$7,400,000.00, and such additional stock as may be hereafter authorized by supplemental order.

It is hereby further ordered that "East Bay Water Company" is hereby authorized to issue \$9,128,000.00 of bonds bearing interest at the rate of $5\frac{1}{2}$ per cent, \$7,400,000.00 par value of stock, and such additional stock as may be authorized in a supplemental order.

The authority herein granted is granted upon the following conditions and not otherwise:

1. The stock and bonds herein authorized to be issued shall be used to pay off or cancel all of the indebtedness which is a lien upon any of the property of Peoples Water Company; all of the promissory notes of Peoples Water Company secured by Peoples Water Company bonds; and all other indebtedness of Peoples Water Company.

2. The property of Peoples Water Company shall be transferred to a new corporation, to be known as "East Bay Water Company," free and clear of all encumbrance.

3. None of the bonds herein authorized to be issued shall be issued until East Bay Water Company shall have submitted a copy of its mortgage or deed of trust, and this Commission shall have issued an order approving said mortgage or deed of trust.

4. None of the stock herein authorized to be issued shall be issued until the East Bay Water Company shall have submitted a copy of its articles of incorporation, and this Commission shall have issued an order approving said articles of incorporation.

5. Before any of the stock or bonds herein authorized shall be issued, Peoples Water Company shall submit to this Commission a statement of such amounts as it proposes to pay, out of cash on hand, for expenses incidental to its reorganization.

6. Within three months from date Peoples Water Company, or its successors, shall report to this Commission in detail a plan for enlarging the water facilities of those communities now served by Peoples Water Company, to the end that such communities shall have adequate and complete service of pure water.

7. East Bay Water Company shall keep separate, true, and accurate accounts, showing the receipt and application in detail of the proceeds of the sale of the stock and bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission, stating the sale or sales of said stock and bonds during the preceding month, the terms and conditions of the sale, and the moneys or properties realized therefrom.

8. The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

9. The authority herein granted shall apply to such stock and bonds as shall have been issued, and to such properties as shall have been transferred on or before January 1, 1917.

10. None of the stock nor bonds herein authorized to be issued shall be issued until this Commission shall have issued a supplemental order finding that the applicant has complied with such of the conditions herein set out as this Commission may deem prerequisite to such issue.

It is further ordered that Peoples Water Company or East Bay Water Company be granted authority to transfer its water properties to the city of Oakland, or a water district or a municipal corporation, under the terms and conditions set out in the "Peoples Water Company letter and modified plan of reorganization with amendments as adopted by Reorganization Committee," a copy of which has been filed in connection with the supplemental application herein and marked Exhibit No. 25, or on such other terms and conditions as may hereafter be approved by this Commission, said transfer of its water properties by Peoples Water Company or East Bay Water Company to become effective only after a statement of the exact terms and conditions of said transfer have been filed with this Commission and a supplemental order issued by this Commission approving the same.

The foregoing first supplemental opinion and order are hereby approved and ordered filed as the first supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of March, 1916.

DECISION NO. 3212.

IN THE MATTER OF THE APPLICATION OF THE HAPPY VALLEY LAND
AND WATER COMPANY FOR AN ADJUSTMENT OF WATER RATES.

Application No. 1964.*Decided March 30, 1916.*

Applicant applies for an order of the Commission establishing rates for irrigation and domestic water service. Its present rates include a charge of 10 cents per miner's inch day to stockholders and 20 cents per miner's inch day to non-stockholders. Rates of this nature have always been held discriminatory, the Commission holding that a rate should be alike both to stockholders and non-stockholders, the former to look to dividends for a return upon their investment and not to a more favorable or unjustly low rate.

Held, The following rates established to become effective April 15, 1916: 20 cents per miner's inch day for irrigation use; 10 cents per miner's inch day for mining use up to 1,000 inches per day in one year; 5 cents per miner's inch per day for mining use in excess of 1,000 inches per day in one year; \$1.25 per month per consumer for domestic use. Applicant to file rules within fifteen days governing the distribution of water.

In connection with the valuation of applicant's system, it is held that as this system was originally built for mining purposes a return upon its full value can not now be expected, because it has been found suitable for irrigation purposes. Actual cost to acquire system for its present use allowed.

Roscoe D. Jones, for Applicant.

Francis Carr, for the Happy Valley Water Users Association.

REPORT OF THE COMMISSION.

Applicant asks that the Commission fix rates for water delivered to consumers for domestic, irrigation and mining uses. The applicant's plant in Shasta County consists of headworks on the North Fork of Cottonwood Creek, a main ditch which is about twenty-five miles long, collecting and distributing ditches and reservoirs. The headworks are in section 31, township 31 north, range 7 west, M. D. M. The distribution ditches are located in the vicinity of Olinda and aggregate a total of about thirty miles in length. There is a main distribution reservoir covering forty acres, and six others, each covering from three to eight acres. The company claims the right to divert from Cottonwood Creek 5,000 miner's inches of water, equal to 100 cubic feet per second. The area irrigated by the ditches of the company totals 1,676 acres, for which, according to the records, water was furnished in 1915 amounting to 19,968 miner's inches for one day of twenty-four hours. In addition to the irrigation use, water was furnished to ten consumers for domestic purposes and to four other consumers, who used a total of 7,809 miner's inch days for hydraulic mining. The miner's inch, used in distribution, is one-fortieth cubic foot per second.

The Happy Valley Water Users Association appeared in the proceeding by counsel, introduced evidence and filed briefs. This association protests against any increase in applicant's rates and urges that the general level of rates be lowered.

Applicant delivers irrigation water to stockholders of the company at the rate of \$.10 per miner's inch day and to non-stockholders at \$.20 per miner's inch day. This is clearly a discrimination in favor of the stockholders. Rates are from \$1.25 to \$1.66 $\frac{2}{3}$ per month for domestic water and for mining water, varying from \$.045 to \$.10 per miner's inch day.

The rates asked for by applicant are:

Irrigation—\$.25 per miner's inch per day: Consumers with 1 to 10 acres to pay for 180 miner's inches per season; 10 to 25 acres, 360 miner's inches per season, and with more than 25 acres, for 360 miner's inches for each additional 25 acres.

Domestic—\$1.50 per consumer per month or fraction thereof.

Mining—Rate to be fixed by board of directors of the Company.

To grant applicant's request would result in a rate nearly double the average rate now paid for irrigation water. It would also result in discrimination against a consumer with a small area.

It is obvious that the present rates result in decided discrimination between stockholders and non-stockholders. We shall, therefore, recommend a rate which is uniform for identical service.

The only appraisal of the property in testimony was presented at the hearing by M. H. Brinkley, one of the Commission's engineers. This estimate totaled:

Reproduction cost	\$145,570 00
Reproduction cost less depreciation	141,349 00

The greater part of the main ditch was built in 1874, for the purpose of hydraulic mining, and was used for many years to its full capacity, but with the decline of hydraulic mining it gradually went into disuse until increase in the irrigation of lands developed.

In 1907, Geo. D. Barber obtained an option on the property for \$15,000.00, and immediately thereafter the Happy Valley Land and Water Company was organized. It assumed the \$15,000.00 obligation, and in addition gave Barber 3,000 shares of stock in the company for the option. Stock has been issued to the amount of 7,557 shares, of which the Elmann Olive Company owns 4,069 shares, a controlling interest. The abstract of title shows that the option covered the ditch system, a mining claim of 1,752 acres at Igo, 380 acres of land east of Igo, 160 acres of land near Ono, a house, barn and lot in Igo, and a lot in Horsetown. All of this property is non-operative except the ditch system. It would not be difficult to determine the value of the non-operative property at the time of the transfer. It is entered on the

books of the company at \$39,000.00. It is evident that the value of the other property operates to reduce the actual cost of the ditch system below the total of \$15,000.00. Various improvements have been made on the property with borrowed money. The total notes and accounts payable are now about \$14,000.00. At least \$7,000.00 of this can be traced and was expended during the past three years for additions and betterments. Testimony at the hearing shows that stock assessments were levied at times to cover deficits in obligations for maintenance and operation. Stock carried with it grant of low rates for water, and stockholders received a return on their investments in this way. This may account in part for the deficits in past operations, which applicant's attorney speaks of in his brief, but which are not now shown in the books of the company.

An estimate of reproduction cost of the property has been shown, but considering the fact that the ditch system was originally built for hydraulic mining use, that has been terminated, it seems that the original investors did not make any sacrifice for present irrigation consumers. They built an adjunct of the then mining industry, and it can not fairly be held that their successors should be allowed a return upon an investment made for a purpose which has been fulfilled, simply because it became possible to use the structure remaining for a new and different purpose. It is clear that the main ditch, when developed to its full capacity, can irrigate several thousand acres additional to the present area served. It does not seem equitable to require present consumers to pay a rate which will yield a return on the reproduction cost entire. Applicant fully concedes this.

It is also apparent from the evidence in this case that if a system were being constructed for existing demands, and if the project had originally been for irrigation purposes, the result in money expended and design of property would be very different. We believe, therefore, that it is entirely fair to applicant if returns are received on \$25,000.00, the maximum that the operative property may have cost the present owners.

Allowing 8 per cent on this investment, and adopting the estimates of operating expenses and depreciation presented by the Commission's engineer, we arrive at the following gross annual charges:

Eight per cent interest on \$25,000.00-----	\$2,000 00
Operating expenses and taxes -----	3,514 00
Depreciation -----	218 00
Total -----	\$5,732 00

According to the evidence, applicant furnished water for the irrigation of 1,676 acres of land in 1915. In the calculations of probable revenue we have estimated that all consumers will use the same amounts

of water per acre in 1916. Also we have estimated that the use of water by consumers, other than Ehmann Olive Company, will have the same rate of increase from 1915 to 1916 as it had from 1914 to 1915. On this basis the use of water for irrigation in 1916 should be 27,000 inches.

In a consideration of the future rate the fact must not be lost sight of that many of the stockholders have contended for a low irrigation rate to both stockholders and non-stockholders, even though they would have to make up the difference in stock assessments on the theory that a low rate is necessary both for the development of the country and the future prosperity of the company.

If the present rates for domestic use are left undisturbed, and a rate of \$.20 per miner's inch per day for irrigation water and a rate of \$.05 to \$.10 per miner's inch per day for mining water, according to the quantity used, are put into effect, a total gross income of \$6,000.00 would result. The miner's inch used is one-fortieth of a cubic foot per second.

Applicant should be required to provide and file with this Commission adequate rules and regulations governing service.

ORDER.

Application having been made by Happy Valley Land and Water Company, requesting that its rates for the service of water be fixed, and a public hearing having been held, and the Commission being fully advised in the premises, it is hereby found as a fact by the Railroad Commission of the State of California that the rates now charged by applicant, in so far as they differ from the rates hereinafter in this order set out, are unjust and unreasonable, and that the rates set out in this order are just and reasonable rates to be charged by applicant to its consumers for water.

Basing its order on the foregoing findings of fact, and the further findings of fact contained in the opinion preceding this order,

It is hereby ordered by the Railroad Commission of the State of California that applicant may file with this Commission the following schedule of rates, said rates to become effective April 15, 1916:

- \$.20 per miner's inch per day for irrigation use.
- .10 per miner's inch per day for mining use, up to 1,000 miner's inches per day in one year.
- .05 per miner's inch per day for mining use in excess of 1,000 miner's inches per day in one year.
- 1.25 per month per consumer for domestic service. The term "miner's inch" used herein means one-fortieth cubic foot per second.

It is hereby further ordered that within the period of fifteen days from the date of this order, applicant file for the approval of this Commission rules and regulations governing its service of water.

Dated at San Francisco, California, this 30th day of March, 1916.

Decision No. 3213, grade crossing; not printed. See end of volume.

DECISION No. 3214.

IN THE MATTER OF THE APPLICATION OF TRADERS OIL COMPANY
FOR AUTHORITY TO INCREASE RATES OR DISCONTINUE SERVICE.

Application No. 2066.

Decided March 30, 1916.

Applicant having developed a natural gas well, contracted to deliver such gas to the Coalinga Pipe Line Company for distribution in the town of Coalinga. Finding that it could use this gas to operate its pumps at a more economical rate than the fuel at present used, it threatened to discontinue service to the distributing company, and when notified that authorization of the Commission would be necessary thereto, it applied for permission to either discontinue service or increase the present rate to equal the amount it is obliged to pay for other fuel.

Held. That applicant has submitted no data whatever upon which an increase in its present rates could be based, neither has it shown that it would not be possible to develop sufficient gas for both the Coalinga service and its own needs. Application dismissed without prejudice.

M. V. McQuigg, for Applicant.

James M. Burke, of *Lamberson, Burke & Lamberson*, city attorneys,
for city of Coalinga.

G. W. Satchell, for Coalinga Gas and Power Company.

Morris M. Ferguson, for Coalinga Pipe Line Company.

REPORT OF THE COMMISSION.

This is an application of Traders Oil Company, a corporation, for authority to increase the rate charged by it to the Coalinga Pipe Line Company or discontinue service.

Applicant is the owner of the southeast quarter of the southeast quarter (SE. $\frac{1}{4}$ of SE. $\frac{1}{4}$) of section thirty-five (35), township twenty (20) south, range fourteen (14) east, M. D. B. and M, in the Coalinga oil fields, upon which is located a certain gas well drilled by one B. I. Potter, at that time a lessee of Traders Oil Company.

During the tenancy of Mr. Potter, five shallow oil wells were drilled, which yielded oil in such small amounts that they were unprofitable. In the fifth well, while drilling for oil, a gas well was brought in on or about the 18th day of October, 1913, at a depth of 508 feet. The open flow capacity of this well was approximately 3,000,000 cubic feet per day. In March, 1914, the shut-in pressure was 80 pounds per square inch. The estimated delivery under 20 pounds discharge was from 100,000 to 150,000 cubic feet per day.

For the purpose of disposing of this gas, Mr. Potter organized the Coalinga Pipe Line Company, which was incorporated under the laws of this State on October 27, 1913, for the purpose of owning, operating,

leasing, and controlling one or more pipe lines to carry on the business of conveying oil, gas or other products or by-products of the oil or gas which may be conveyed by pipe line, and for the purpose of marketing and selling same.

The authorized capital stock consists of 20,000 shares with a par value of \$1.00 each. No shares have been issued except one to each of the three directors. From the testimony in this case it appears that the present owners of the Coalinga Pipe Line Company did not invest any money whatever in the venture. The capital for the construction of the gas line was furnished by the same parties who financed Mr. Potter's oil operations. The Coalinga Pipe Line Company is only another legal entity for Mr. Potter and his associates as lessees of the Traders Oil Company.

On November 6, 1913, the lessees of the Traders Oil Company entered into a contract with the Coalinga Pipe Line Company, under the terms of which contract the lessees agreed to sell, and the Coalinga Pipe Line Company agreed to buy, all the natural gas produced on the tract of land hereinabove described at a rate of 8 cents per thousand cubic feet for all gas sold to consumers at a rate of 25 cents or more per thousand cubic feet, and at a rate of $4\frac{1}{2}$ cents per thousand cubic feet for all gas sold to consumers at less than 25 cents per thousand cubic feet. The contract further provides that Coalinga Pipe Line Company will construct a two and one-half ($2\frac{1}{2}$) inch pipe line to Coalinga, install a compressor, an electric plant of the necessary capacity, and all service pipes to all consumers within a radius of five miles from the well in all instances where the gas bills of the proposed consumers will pay for the cost of installing said service within a period of one year.

After having received a certificate of public convenience and necessity from this Commission, Coalinga Pipe Line Company proceeded to construct a $2\frac{1}{2}$ inch pipe line 17,500 feet in length, and transmit the gas to the city of Coalinga, where it sold its gas at wholesale to the local distributing company at a rate of 30 cents per thousand cubic feet. The requirements of the distributing company average about 800,000 cubic feet per month, corresponding to a maximum daily output of 35,000 cubic feet. At the present time the well can produce but slightly in excess of this amount.

The lessees of the Traders Oil Company, soon after the execution of the contract of the Coalinga Pipe Line Company and the distributing company at Coalinga, failed to fulfill the drilling requirements of their lease. It thereupon forfeited the lease and Traders Oil Company took possession of the property and continued to serve the Coalinga Pipe Line Company with gas for approximately six weeks, when, discovering that the gas might be used to greater advantage for their

own fuel purposes, they thereupon threatened to discontinue service to the Coalinga Pipe Line Company on or about December 4, 1915. Upon being advised in the matter, the Commission informed the officials of Traders Oil Company that they could not legally discontinue gas service without having been granted permission to do so after a formal hearing before the Railroad Commission.

Traders Oil Company desires to use gas from the well in question for fuel purposes at their water pumping plant, which plant is the only supply of water for their extensive oil operations in other sections of the Coalinga field. The gas could undoubtedly be put to a use more profitable to the applicant herein than the one to which it is now being put.

At the hearing in Coalinga on February 16, 1916, and at the hearing in Los Angeles on February 24, 1916, applicant failed to submit any evidence in support of his application other than statements that the gas was most valuable to the Traders Oil Company for fuel purposes, and that they should, therefore, be allowed to discontinue the service or to raise the rate so that the net return on the gas sales would equal the amount expended by them for fuel oil at their water plant. Applicant's lessee through its contract with the Coalinga Pipe Line Company and the contract of the latter company in turn with the Coalinga Gas and Power Company has dedicated the gas from this well to the public use.

All three of these companies are beyond question public utilities, as defined by the Public Utilities Act. Although applicant became a public utility through the circumstances hereinabove set forth rather than choice, this Commission can not be expected to relieve it of its public utility obligations or allow the discontinuance of the supply of the valuable commodity to the inhabitants of the city of Coalinga by the bare statement that the owners of such commodity desire the same for their own use.

In regard to the raise in rates, applicant has not shown that the desired increase is justified. Evidence has not been introduced upon which the Commission can determine either the cost or value of this service. In order to determine whether or not an increase in rates is justified, the Commission should be supplied with information regarding the original cost, present value, probable life of the physical property, expense of operation and further details regarding the value of this service, both to Traders Oil Company and to the present recipients.

The Commission would not be justified in basing natural gas rates on the fluctuation price of fuel oil. At the hearing certain facts were developed which, while unnecessary to the decision herein, should be noted. They are as follows:

First, it is not at all uncertain but that the well can be cleared of water and made to produce sufficient gas for the requirements of the city of Coalinga, and also supply gas to the applicant for its fuel purposes. Such a condition would obviate any necessity for discontinuance of service. Applicant herein could undoubtedly materially reduce his fuel cost for pumping by the installation of more efficient equipment.

Lastly, testimony in the case indicated that the Coalinga Pipe Line Company, with an investment of approximately \$3,000.00, is deriving a revenue therefrom of approximately \$2,400.00 per annum. It may be that they are receiving more than their just share from the sale of the outputs of the gas well on the applicant's property. However, this matter is not now before the Commission.

We are of the opinion that applicant has not shown either a right or a necessity for discontinuing this service, nor has it supplied the Commission with sufficient information to enable it to determine whether or not an increase in rates is justified.

If applicant is of the opinion that sufficient gas can not be obtained for both uses, or that they are entitled to an adjustment or raise of rates, it may again bring this matter before the Commission and present evidence along the lines hereinabove suggested.

ORDER.

Traders Oil Company having filed with this Commission its application for authority to increase rates or discontinue service, and a public hearing having been held, and applicant having failed to give sufficient proof of the necessity for or right to a discontinuance of service or an increase in rates,

It is hereby ordered that this application be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 30th day of March, 1916.

DECISION No. 3215.

IN THE MATTER OF THE APPLICATION OF C. S. S. FORNEY FOR AN ORDER PRELIMINARY UNDER SECTION 50 OF THE PUBLIC UTILITIES ACT, THAT AN ORDER WILL HEREAFTER ISSUE FINDING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF SUCH RIGHT OR PRIVILEGE TO FURNISH THE INHABITANTS OF NEWMAN, STANISLAUS COUNTY, CALIFORNIA, WITH GAS, AS MAY HEREAFTER BE OBTAINED.

Application No. 2107.

Decided March 30, 1916.

Applicant, having filed an application for a preliminary certificate permitting the construction and operation of a gas generating and distributing system in the town of Newman, failed to supply the necessary data bearing upon the pro-

posed methods of construction and financing, and it appearing that applicant submitted estimates covering cost of new materials when he intended installing secondhand materials instead, which would result in considerably overcapitalizing this project, application denied.

Daniel A. Ryan, for Applicant.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

In this application C. S. S. Forney asks for an order preliminary to the issue of a certificate that public convenience and necessity require the exercise of the rights and privileges of a franchise which he contemplates securing for the construction of a gas plant, and the sale and distribution of gas in the town of Newman, Stanislaus County.

On July 16, 1915, a similar application was dismissed by this Commission without prejudice. (Volume 7, Opinions and Orders of the Railroad Commission of California, page 674.) Applicant had failed to file data requested by the Commission bearing upon the cost of the property, an estimate of the business available, and a plan of financing.

At the hearing upon the application now under consideration, held at Newman on March 24th, applicant filed a report compiled by himself and Mr. H. W. Burkhart, an engineer, estimating the "value for the whole system when completed" at \$50,350.00. This estimate was based upon the purchase of the existing gas properties in Newman for \$2,500.00 with necessary additions and betterments of new materials. At the hearing it was disclosed through the examination by the Commissioner, that it was applicant's intention to use the secondhand material now at Newman and to complete the plant as far as possible with other secondhand material which it was proposed to purchase from the property at Coram, Shasta County. Included in this estimate of \$50,350.00 is also an item of \$14,000.00 described as "intangible capital, including incorporation, organization, development and other intangible property."

Applicant later modified his submission by stating that the plant could probably be built for \$36,350.00; subsequently admitted that this would be reduced if secondhand material were used as he planned; and finally proposed to use the estimate of Mr. Hammond, of the Commission's engineering department, of \$36,278.00.

Mr. Hammond's estimate consists of an analysis of Mr. Forney's figures and his representation that much of the material would be new.

It is clear that this applicant submitted a highly inflated estimate, based largely on new materials, when he had in mind the use of secondhand equipment which could be purchased at lower prices.

The applicant has no franchise nor has he taken steps to obtain one. He has outlined a meager plan of financing his project through stock at

par, stating that he will borrow the money to purchase this stock. It developed at the hearing that he contemplated the organization of a corporation, to be known as the Newman Gas Company.

Although the applicant offered to rely upon Mr. Hammond's report, it appears that Mr. Hammond has estimated that the venture as organized and proposed by Mr. Forney could not be successful.

It may be that a gas company, properly organized and honestly built and administered, could be made useful and profitable in Newman.

There appears in the present instance, however, to have been an effort to bring about the construction of an inferior plant of secondhand material at an inflated valuation as the basis for a future stock issue.

It is better that the people of Newman should wait for a time for a properly built and administered gas company than to have the present company taken over and capitalized at an unjustifiable figure.

The applicant has not yet submitted to this Commission fully what he actually intends to do, nor has he shown his financial ability to carry out this project at Newman.

Accordingly, I recommend the following form of order:

ORDER.

C. S. S. Forney having made application to this Commission for an order preliminary to the issue of a certificate that public convenience and necessity will require the exercise by him of rights and privileges of a franchise for the construction of a gas plant and the sale of gas in Newman, Stanislaus County, and a hearing having been held and the Commission being fully advised in the premises, for the reasons set out in the foregoing opinion,

It is hereby ordered that the same be and it is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of March, 1916.

DECISION No. 3216.

IN THE MATTER OF THE APPLICATION OF W. F. WHITTIER, DOING BUSINESS UNDER THE FICTITIOUS NAME OF HEMET MILLING AND POWER COMPANY, AND THE SOUTHERN SIERRAS POWER COMPANY FOR AN ORDER AUTHORIZING THE SALE AND TRANSFER BY THE SAID W. F. WHITTIER TO THE SOUTHERN SIERRAS POWER COMPANY OF A CERTAIN ELECTRICAL PLANT OR SYSTEM AND PERSONAL PROPERTY AT HEMET, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA.

Application No. 2106.

Decided March 30, 1916.

W. F. Whittier, operating a small electrical generating and distributing system in the town of Hemet, applies jointly with the Southern Sierras Power Company, performing a like service in the same town, for permission to transfer such system to the latter named company for a consideration of \$4,278.00, the purchaser to issue a promissory note in the sum of \$1,300.00 in part payment therefor. Application granted.

John M. Clayton, for Hemet Milling and Power Company.

I. B. Potter, for the Southern Sierras Power Company.

REPORT OF THE COMMISSION.

Applicants herein are two public service corporations, each engaged in supplying electrical current in the city of Hemet, Riverside County, California. They have entered into an agreement subject to the approval of this Commission and join in this application for the sale of the public utility property of Hemet Milling and Power Company to the Southern Sierras Power Company.

The reasons upon the part of the applicants for entering into the proposed sale and purchase of said property are as follows:

The Southern Sierras Power Company is operated in the city of Hemet under a franchise granted by the municipal authorities thereof; the Hemet service thus conducted by the Southern Sierras Power Company is a part of its entire system, running through the various towns and other parts of Riverside County; the public utility properties of the applicant Hemet Milling and Power Company in said town are confined to a comparatively small district within said city. Some years ago W. F. Whittier, the owner of Hemet Milling and Power Company, operated a mill at Hemet, and in connection therewith he installed certain electrical equipment in the form of a small generator, used in connection with the operation of that mill. There was at that time no other electric utility available in that locality, in consequence of which fact Mr. Whittier began to dispose of electric current in a limited quantity to other consumers living in the immediate locality. It was

never the intention of Hemet Milling and Power Company, or its owner, to engage in the business of an electric utility, except in so far as it was possible for its owner to accommodate his friends and neighbors from the generator which he had installed.

Since the installation of the Southern Sierras Power Company's lines in Hemet, most of the residents of Hemet have taken electric current from that company and have received it at a rate less than Hemet Milling and Power Company can furnish the same.

The presence of the two companies at Hemet has resulted in a duplication of electric utility equipment in a community which is unable at the present time to support two electric utilities.

At the public hearing held in Riverside on the 10th day of March, 1916, a valuation of the properties proposed to be sold was introduced by applicant the Southern Sierras Power Company. That valuation may be summarized as follows:

Reproduction cost of distribution property.....	\$7,768 84
Loss in value, due to depreciation and duplication.....	3,490 00

Reproduction cost, less loss due to depreciation and duplication	<u>\$4,278 00</u>
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These figures have been checked by the engineers of the Gas and Electric Department of the Commission, and the same net result arrived at by them.

Under the terms of the agreement of sale entered into by and between the applicants herein, payment of said purchase price is desired to be made as follows:

In cash, upon entry of an order by the Railroad Commission approving and permitting the sale.....	\$1,678 00
Promissory note of the Southern Sierras Power Company to the order of W. F. Whittier, due one year from its date, interest at 6 per cent	1,300 00
Promissory note of the Southern Sierras Power Company to the order of W. F. Whittier, due two years from its date, interest at 6 per cent	1,300 00
Total	<u>\$4,278 00</u>

Authority from this Commission to issue the note payable in one year is not required.

Annual reports filed with the Commission by Hemet Milling and Power Company show earnings for this system as follows:

For the Year 1915.	
Operating revenues	\$3,423 58
Operating expenses other than depreciation.....	2,785 10
Net operating revenue.....	<u>\$638 48</u>

The operating expenses of the Southern Sierras Power Company will not be greatly increased by the addition of this business, as it now

operates almost a duplicate system. On the contrary a considerable saving should result.

After a consideration of the evidence submitted by the applicants, we are of the opinion that this application should be granted.

ORDER.

W. F. Whittier, doing business under the fictitious name and style of Hemet Milling and Power Company, having applied to this Commission for authority to sell certain electric utility property to the Southern Sierras Power Company, a corporation, and the latter company having applied for authority to acquire said property, and to issue notes, as hereinabove set forth, and a public hearing having been held in this matter, and it appearing to this Commission that applicant's request is reasonable and should be granted, and that the purposes for which it is proposed to issue said notes are not reasonably chargeable to operating expenses or to income.

It is hereby ordered that W. F. Whittier, doing business under the fictitious name and style of Hemet Milling and Power Company, be and he is hereby authorized to transfer to the Southern Sierras Power Company the electric light system now owned and operated by him in Hemet, Riverside County, California, for the sum of four thousand two hundred and seventy-eight (4,278) dollars, which said property is more fully described in Exhibit "A," attached to this order and made a part hereof.

It is further ordered that the Southern Sierras Power Company, a corporation, be and it is hereby authorized to issue to W. F. Whittier, as part payment therefor, its promissory note in the sum of thirteen hundred (1300) dollars, with interest at six (6) per cent per annum, payable two (2) years from date of the making of said note.

The order herein made is granted upon the following conditions, and not otherwise, to wit:

1. The purchase price of the property herein authorized to be transferred shall not hereafter be binding upon this Commission, or any other public body, as representing the real value of said property for rate fixing or other purposes.

2. The authority given to issue promissory notes shall apply only to such promissory notes as may be issued prior to May 1, 1916.

3. The authority hereby given to issue promissory notes shall not become effective until the Southern Sierras Power Company has paid the fee specified in section 57, as amended, of the Public Utilities Act.

4. The Southern Sierras Power Company, a corporation, shall report to the Commission within fifteen (15) days after the issue of the note hereby authorized to be issued, the fact of the issue of the note and the terms and conditions thereof.

Dated at San Francisco, California, this 30th day of March, 1916.

EXHIBIT "A."

All of the materials, supplies, poles, fixtures, overhead system (insulators and wires), underground conduits, line transformers and devices, electric services, meters, municipal street lighting system, miscellaneous general equipment and franchise rights and rights of way, now and heretofore used by W. F. Whittier (doing business under the title of Hemet Milling and Power Company) in his business as an electrical corporation within the city of Hemet. This sale and transfer does not include any real estate nor the engine, boilers, electric generator, switchboard and switchboard equipment heretofore used by said W. F. Whittier in his said business as an electrical corporation.

DECISION No. 3217.

IN THE MATTER OF THE APPLICATION OF C. S. S. FORNEY FOR AN ORDER PRELIMINARY TO THE ISSUE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE SERVICE OF GAS IN TRACY, CALIFORNIA.

Application No. 2179.

Decided April 1, 1916.

REPORT OF THE COMMISSION.

ORDER DISMISSING APPLICATION.

C. S. S. Forney having filed the above entitled application for an order preliminary to the issue of a certificate of public convenience and necessity for the service of gas in Tracy; and said application giving no information whatsoever except the number of inhabitants and the number of buildings in Tracy; and no allegations being made and no data being supplied bearing in any way on the feasibility of the project referred to or on the ability of the applicant to secure a franchise from the city of Tracy or on his ability to finance such undertaking; and the application herein failing entirely to comply with the provisions of the Railroad Commission's rules of procedure,

It is hereby ordered that the above entitled application be and the same is hereby dismissed.

Dated at San Francisco, California, this 1st day of April, 1916.

DECISION No. 3218.

EDW. D. MORRIS

vs.

WEST COAST GAS COMPANY.

Case No. 860.*Decided April 1, 1916.*

REPORT OF THE COMMISSION.**ORDER OF DISMISSAL.**

It appearing that the Commission does not have jurisdiction to grant the relief prayed in the complaint in this proceeding,

It is hereby ordered that the complaint in this proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 1st day of April, 1916.

DECISION No. 3219.

BILLINGS & SNEE

vs.

WEST COAST GAS COMPANY.

Case No. 861.*Decided April 1, 1916.*

REPORT OF THE COMMISSION.**ORDER OF DISMISSAL.**

It appearing that the Commission does not have jurisdiction to grant the relief prayed in the complaint in this proceeding,

It is hereby ordered that the complaint in this proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 1st day of April, 1916.

DECISION No. 3220.

JOHN F. BOWEN

vs.

WEST COAST GAS COMPANY.

Case No. 862.

Decided April 1, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

It appearing that the Commission does not have jurisdiction to grant the relief prayed in the complaint in this proceeding,

It is hereby ordered that the complaint in this proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 1st day of April, 1916.

DECISION No. 3221.

CHARLES POTERE

vs.

PACIFIC ELECTRIC RAILWAY COMPANY.

Case No. 868.

Decided April 1, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

It appearing to the Commission that the subject matter of this complaint and the relief sought are not within the jurisdiction of the Commission,

It is hereby ordered that the complaint in this proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 1st day of April, 1916.

DECISION No. 3222.
CITY OF CORCORAN
vs.
CORCORAN WATER AND GAS COMPANY.

Case No. 915.

Decided April 1, 1916.

Complainant petitions the Commission to compel defendant company to install meters and larger pipes throughout its distributing system and increase the size and height of its storage tank. Defendant's system, worth approximately \$14,000.00, was offered to the city for \$6,000.00, and this Commission authorized such transfer, nevertheless the city has never submitted the matter to a vote of the people, but instead is attempting to compel the water company to install a number of expensive improvements.

Held, That certain improvements are absolutely necessary and should be made; however, the citizens of this locality should first be given an opportunity to express their desires as to the purchase of this system, or the option should be cancelled. Defendant directed to begin installation of a 60,000-gallon tank upon an 80-foot tower thirty days after the city shall have terminated its option to purchase this system. The Commission expresses its willingness to consider an application from this company to increase rates after the installation of such improvements.

K. Van Zante, city attorney, for Complainant.

P. E. Kilpatrick, for Defendant.

REPORT OF THE COMMISSION.

This is a case brought by the City of Corcoran, a municipality of the sixth class, in Kings County, against Corcoran Water and Gas Company, a corporation, engaged in supplying the inhabitants of Corcoran with water, and hereinafter designated and referred to as the "water company."

The complaint contains allegations of discrimination, of the requirement by the water company that the cost of all extensions be advanced by the consumer, and of inadequacy of service; it further alleges that this inadequacy is due to the following causes:

1. That all the pipes are too small to carry a sufficient supply of water for the present population of said city (of Corcoran).
2. That the said water company maintains no meters to guard against waste by those living near the water works.
3. That the storage tank is too small and is not sufficiently elevated.

In conclusion, complainant prays that the defendant be required to install pipes of adequate dimensions, to erect a 60,000-gallon tank on an 80-foot tower, to make all extensions at its own expense upon

the application of any resident within the corporate limits, and to abolish all discriminations.

The answer in addition to denying discrimination and serious inadequacy of the water supply sets up, as an excuse for not having made further improvements, certain negotiations between the water company and the city, which will be hereinafter more particularly referred to.

A public hearing was held in Corcoran on March 20, 1916. From the evidence introduced, and from the arguments of counsel, it appears that the only serious grievance that the consumers have against the water company is the inadequacy of the service. As to this charge, the evidence unquestionably shows that a large number of the residents of Corcoran suffer from a totally inadequate water service.

From the undisputed evidence of several witnesses it appears that almost all the water users in the various outlying portions of the city have great difficulty in the summer months in getting any water during the hours of heavy demand. Several witnesses testified that they had to fill their bath tubs with water when the demand was light in order to be able to obtain water for flushing their toilets or for any other purposes during the remainder of the day and that this condition was typical of other users in their localities. It further appears that this shortage is caused principally by the mains being too small and the tank not having sufficient elevation.

The present population of the city of Corcoran is apparently about 800, and the water company has 143 live services. Its charges are made under flat rates ranging from \$1.00 for small houses up to \$5.00 for the hotel. Water is obtained from two 12-inch artesian wells, one being 1,200 and the other 1,500 feet deep, from which the water is pumped into a 10,000-gallon tank placed on a 40-foot tower. The pipe system consists of:

910 lineal feet of $\frac{3}{4}$ -inch standard pipe.
4,825 lineal feet of 1-inch standard pipe.
~~12,000~~ lineal feet of 2-inch standard pipe.
~~2,350~~ lineal feet of 4-inch casing.

20,985 total lineal feet.

Mr. H. F. Clark, assistant hydraulic engineer of the Railroad Commission, after a field investigation of the water company's system, made a written report, which was introduced in evidence at the hearing as Railroad Commission's Exhibit No. 2. During this examination Mr. Clark took pressure tests at eleven different places in the city with the company's tank approximately full. He found that the pressure was poor throughout the system, the tests showing pressures varying from a minimum of eleven to a maximum of seventeen pounds per square inch.

Mr. Clark submitted an estimate of the cost new of the system, less depreciation computed upon the sinking fund basis, as follows:

Item	Estimated cost, new	Accrued depreciation	Estimated cost, new, less depreciation
Real estate	\$600 00		\$600 00
Wells	9,492 00	\$1,797 00	7,695 00
Pump and motor	618 00	123 00	495 00
Tank and tower.....	1,000 00	583 00	417 00
Pump house	154 00	58 00	96 00
Pipe system	4,512 00	1,121 00	3,391 00
Meters—4-inch	404 00	25 00	379 00
Services— $\frac{3}{4}$ -inch	629 00	105 00	524 00
Stock on hand.....	200 00		200 00
Tools	25 00		25 00
Totals	\$17,634 00	\$3,812 00	\$13,822 00

The system was originally installed by the Security Land and Loan Company of Los Angeles, which founded Corcoran about ten years ago. After a portion of the pipe lines were laid, the defendant, Corcoran Water and Gas Company, was formed and the water system was transferred to it. In 1911 a new pump was installed and the system has since been gradually extended. There is no question but that some portion of the original cost of the plant should be charged against the development of the enterprise of the Security Land and Loan Company. This principle was apparently recognized by that company, for when it transferred its water plant to applicant in November, 1907, the value of the plant was entered on the water company's books as \$10,000.00, although its original cost was considerably greater. Starting with this figure as a basis, the water company has, since that time, expended according to the evidence a total of \$4,947.55 upon additions and betterments, making a total book cost of \$14,947.55. Probably some duplication of items is included in this total, and, of course, no deductions have been made for depreciation.

The books of the water company for the last three years show an average annual revenue of \$3,275.58, while the reasonable operating expenses submitted by the defendant for the same period average \$2,347.90, leaving \$927.68 to cover interest and depreciation.

In order to give first-class service to the inhabitants of Corcoran it would be necessary for the water company to make extensive improvements. Mr. J. B. Mayer, president and principal stockholder of the water company, proposed on January 3, 1916, to lay 8-inch mains through certain parts of the city, to improve the circulation in the system with 6-inch and 4-inch mains, and to provide a 60,000-gallon tank on an 80-foot tower. The offer, not having been accepted, was withdrawn two weeks later, and Mr. Mayer stated at the hearing that

on account of the advance in prices of materials since that time he was not prepared to renew this offer.

In Mr. Clark's report a detailed estimate of the cost of these proposed improvements is made, the total estimated cost amounting to \$14,740.00. The report proceeds to suggest certain modifications of the improvements proposed by Mr. Mayer, and suggests that the following additions would provide reasonable and adequate service for several years at a saving from the original proposal of approximately \$4,000.00.

60,000-gallon tank on 80-foot tower-----	\$4,500 00
Whitley avenue, 6-inch pipe, 3,800 feet at 62 cents-----	2,360 00
Chittenden avenue, 8-inch pipe, 900 feet at \$1.00-----	900 00
Chittenden avenue, 6-inch pipe, 600 feet at 62 cents-----	372 00
Brokaw avenue, 4-inch pipe, 2,250 feet at 41 cents-----	925 00
Hall avenue, 4-inch pipe, 2,200 feet at 41 cents-----	902 00
Letts avenue, 4-inch pipe, 2,000 feet at 41 cents-----	820 00
Total -----	\$10,779 00

It further appears that on the 10th day of May, 1915, the water company made a formal offer to sell its plant and property to the City of Corcoran for the sum of \$6,000.00, that the following day the board of trustees of the city of Corcoran duly passed and adopted a resolution accepting said offer of the water company, subject to confirmation by this Commission, and instructed its attorney to initiate and carry out such steps and proceedings as might be necessary for securing the confirmation of said purchase and for submitting to the voters of the city of Corcoran at as early a date as possible the proposition to vote bonds for the purpose of acquiring the property of the water company. Thereafter, an application was jointly made to this Commission by the complainant and the defendant in this case for an order authorizing the water company to sell its entire system to the City of Corcoran, and by Decision No. 2457 (reported in Vol. 7. Opinions and Orders of the Railroad Commission of California, page 35) this Commission, on June 7, 1915, duly granted the application. In spite of the favorable action of this Commission the city authorities have never submitted to the people the proposition of voting bonds for the purpose of acquiring a municipal water system, and, apparently, they would now prefer to force the water company to install extensive improvements rather than to acquire the system and make the improvements at the city's expense.

If the city purchases the plant under its present option, it will be getting it at far less than its estimated reproduction cost less depreciation, and, what is more, it will be able to raise the necessary money at a lower rate of interest than could the water company. From the evidence it appears that the water company could probably not obtain this money at a lower interest rate than 8 per cent, and if the company

were ordered by this Commission to install the proposed improvements its consumers in Corcoran would, under the circumstances of this case, have to pay rates high enough to yield the water company a sufficient revenue to provide for a sinking fund and for 8 per cent interest upon the cost of all its extensions, in addition to the value of its present plant, as the same might be determined for rate fixing purposes. This would impose a far greater burden upon the residents of Corcoran than would be imposed by the purchase of the plant and its improvement by the city, and we think it only fair to the citizens of Corcoran to give them the opportunity of voting upon this matter, especially as the complainant herein has already asked this Commission to authorize the transfer. If, however, the citizens of Corcoran should vote against the purchase of the water system, or if the trustees of the city should elect to cancel their present option with the water company without submitting the question of purchase to a vote of the people, we feel that the company should be required to take some definite steps toward improving its service, and we find that the first improvement it should be ordered to make is the installation of a 60,000-gallon tank on an 80-foot tower. We wish, however, to call the city's attention to the fact that if it cancels its option it could not count upon acquiring the system later for a sum equal to \$6,000.00 plus the cost of the improvements ordered by this Commission.

The question naturally arises as to whether the metering of the defendant's entire water system should not also be required by this Commission. We should, unquestionably, make such an order except for the testimony of the defendant to the effect that this artesian water carries in suspension a considerable amount of fine black sand which renders the use of meters impracticable. We have little doubt but that an efficient settling tank or some other comparatively simple and inexpensive device would relieve the defendant of this difficulty, but we have not had an opportunity to investigate this matter in sufficient detail to warrant us at this time speaking authoritatively upon the subject, and as no evidence bearing upon the point was introduced by the complainant, we shall not pass upon the matter in this decision.

The question of rates was also discussed at the hearing and counsel for complainant stated that the citizens of Corcoran were willing to pay whatever rates might be necessary in order to enable the water company to give adequate service. We can not, of course, authorize applicant to increase its rates when it is not giving even fair service to its consumers, but if, after defendant has installed and put into service the improvements hereinafter ordered, it wishes to make an application for an increase in rates, this Commission would naturally expect to authorize it to charge such rates as might be reasonable, considering the value of its plant and the quality of its service.

ORDER.

The City of Corcoran having filed a complaint against Corcoran Water and Gas Company, a corporation, requesting this Commission to order defendant to make certain improvements in its service as more particularly set forth in the foregoing opinion, and a public hearing having been held in the above entitled case, and the same having been submitted and being now ready for decision, we hereby find as a fact that the defendant is not rendering its consumers, the residents of Corcoran, adequate service.

Basing our conclusion on the foregoing finding of fact, and on the further findings of fact contained in the opinion which precedes this order,

It is hereby ordered that within thirty days after the option referred to in the foregoing opinion shall have become terminated either by an adverse vote of the citizens of Corcoran upon a bond issue for the proposed purchase, or by a legal cancellation of the option by the board of trustees of Corcoran, Corcoran Water and Gas Company shall order a 60,000-gallon tank and the necessary material for an 80-foot tower for the same, and shall within ninety days of the termination of the said option as aforesaid, complete the installation of said 60,000-gallon tank upon an 80-foot tower and put the same into service as a part of its water system.

It is hereby further ordered that defendant make to this Commission monthly reports of its progress in providing facilities for improvement of its service.

Dated at San Francisco, California, this 1st day of April, 1916.

DECISION No. 3223.**IN THE MATTER OF THE APPLICATION OF MYRTLE A. JENSON FOR
PERMISSION TO DISCONTINUE WATER SERVICE.**

Application No. 2141.***Decided April 1, 1916.***

Applicant applies for permission to discontinue service to such of its consumers whose property fronts on streets along which mains of the municipal system of Pasadena run. Application granted, provided that such services shall not be discontinued in less than thirty days after applicant shall have notified consumers that the city is prepared to serve them, and also provided that in all cases where the consumer shall have purchased his property from applicant, applicant shall stand any expense the consumer may be put to in obtaining service from the city.

Frank L. Muhleman, for Applicant.

REPORT OF THE COMMISSION.

This is an application on behalf of Myrtle A. Jenson, the owner of a certain water system, formerly known as Linda Vista Water Company, located on the tract known as Linda Vista, in the city of Pasadena, for permission to discontinue water service to certain consumers.

A public hearing was held in Pasadena on March 27, 1916. From the evidence it appears that there are about twenty-five water consumers in Linda Vista, nine or ten of whom receive their water from the municipal system of Pasadena, the remainder being supplied by applicant. The distributing lines of the municipal system are laid along the principal streets of said tract and it is possible to connect a majority of applicant's consumers with the municipal system.

According to the claims of applicant, one of the conditions upon which the property in this tract was sold by her and her predecessors in interest was that the purchasers would be supplied with water from applicant's system until they were able to procure water from some other source, at which time applicant might cease to serve them. From the evidence of several purchasers from applicant's predecessor, however, it appears that they bought their land with the provision that they should be served by applicant's water system, without any such limitation as above set forth. There is no evidence to show that any such reservation was contained in any deed of applicant's predecessor. The present rates charged by applicant are upon a flat rate basis of \$1.25 per month for the head of each family, with an additional charge of 5 cents for each additional person in the family.

Applicant has at present sixteen or seventeen consumers and her total receipts average \$18.75 per month. According to evidence introduced by applicant, the operating expenses of the system amount to at least \$20.00 per month, without any allowances for interest or depreciation.

It developed at the hearing that applicant wishes at this time merely to discontinue serving those of its consumers whose lots front on streets through which run mains of the municipal water system of Pasadena, and authority to discontinue in the future serving any consumer after municipal mains shall be run in front of such consumer's property.

Applicant derives her water from eleven tunnels, approximately 4 by 5 feet cross-section, with a total length of 890 feet, and according to the evidence of several witnesses, including that of Mr. S. B. Morris, chief engineer of the City Water Department, and Mr. T. D. Allin, one of the city commissioners, the entire system does not produce more than two or three miner's inches of water in the dry season. Applicant is not at present pumping any water, and, according to these same

witnesses, it would be impracticable for applicant to develop any substantial additional supply owing to the small drainage area providing the underground supply.

Mr. Morris further testified that the city had ample facilities for serving the consumers whom applicant wishes to discontinue serving, and that, in his opinion, the consumers would receive a far better service from the city than they could hope to receive from the applicant.

Applicant desires to discontinue serving these consumers in order to enable her to develop and serve other land which the municipal plant can not serve. None of the consumers directly affected by this application objected to receiving water from the municipal plant instead of from applicant except upon the ground of not wishing to bear the expense of installing the connections. It is the practice of the city to charge its consumers the actual cost of installing the meters and service connections, and in several cases it might be necessary for applicant's consumers to run new pipes to their own property lines.

Under all the circumstances we feel that in those cases in which the consumers of applicant purchased their property under an agreement by applicant, or its predecessor in interest, to serve the purchaser with water without any reservation as to the termination of this liability when the purchasers could procure water from some other source, applicant should be allowed to discontinue its service only upon condition that it will bear the cost to the consumers of obtaining service from the municipal system but that subject to this provision both applicant and its consumers will be benefited by the change in service.

ORDER.

Myrtle A. Jenson having applied to this Commission for an order authorizing her to discontinue water service to certain of her consumers as set forth in the foregoing opinion, and a public hearing having been held, and it appearing that certain of applicant's consumers can be more adequately served by the municipal water system of Pasadena than by applicant, and that said application should be granted in part subject to the conditions hereinafter set forth,

It is hereby ordered that Myrtle A. Jenson be and she is hereby authorized to discontinue serving water to those of her consumers whose property fronts on streets through which water mains of the City of Pasadena now run.

It is hereby further ordered that said Myrtle A. Jenson be and she is hereby authorized to discontinue in the future, from time to time, serving those of her remaining consumers whose property served fronts on streets through which water mains of the City of Pasadena shall at such time be laid.

The authority herein granted is granted subject to the following conditions and not otherwise:

1. Applicant shall not, unless connection with the city system is made, discontinue service to any consumer until thirty (30) days after applicant shall have given said consumer written notice that the City of Pasadena is prepared to serve such consumer, and that applicant intends to discontinue service upon a certain date.

2. Applicant shall, in each case, send a copy of said notice of discontinuance to this Commission.

3. In all cases in which applicant's consumer obtained his property from applicant or from applicant's predecessor in interest by a deed agreeing to furnish water to said consumer or his predecessor in interest (without a reservation as to release from this obligation upon the purchaser being able to obtain water from another source) before discontinuing serving such consumer applicant shall pay the cost to the consumer of obtaining service from the municipal system.

Dated at San Francisco, California, this 1st day of April, 1916.

DECISION No. 3224.

IN THE MATTER OF THE APPLICATION OF GEORGE A. COOK AND MARY A. COOK TO SELL A WATER SYSTEM AT GARDEN GROVE, ORANGE COUNTY, CALIFORNIA, AND OF GARDEN GROVE CITY WATER COMPANY TO BUY SAID PROPERTY, AND IN PAYMENT THEREFOR TO CONVEY CERTAIN REAL PROPERTY AND TO PAY TWO HUNDRED FIFTY DOLLARS IN MONEY.

Application No. 2148.

Decided April 1, 1916.

George A. and Mary A. Cook apply jointly with Garden Grove Water Company for permission to transfer the small water plant of the former to the latter in exchange for certain real property and \$250.00 cash. Application granted.

Lloyd, Cheney & Geibel, by Warren E. Lloyd, for Applicants.

REPORT OF THE COMMISSION.

Applicants, George A. Cook and wife, operate a small water plant in Garden Grove, Orange County, supplying irrigation water to a tract of about 30 acres and domestic water to about fifteen consumers. The plant was built and operated to supply water to said applicants' land subdivision, which includes 28 building lots, 17 of which are improved. They are in the water business only as an incident to their land subdivision, and wish to dispose of the plant and be relieved of their obligation to serve the public.

Applicant, Garden Grove City Water Company, operates a water plant in Garden Grove, serving about one hundred consumers in the westerly portion of the town with water pumped from a 12-inch well by an automatically regulated electric motor.

Its pumping plant was formerly located in the heart of the town and its pumps operated by gasoline engine. Owing to the complaint of the noise and fumes, it acquired its present lot and well and moved to its present location, exchanging its gasoline engine as part of the purchase price for its electric motor. It wishes to acquire the business and revenues of the Cook plant and dispose of its first lot and well, which are not now used or useful in serving the public.

The Cook plant and lot cost about \$750.00 and is now of the estimated value of \$1,000.00. The company's disused lot and well is of the estimated value of \$500.00. It proposes to convey the lot with the well and pay \$250.00 cash in acquiring the Cook plant.

We are satisfied that Garden Grove City Water Company will be able to serve the patrons of the Cook system as well as they have heretofore been served. Water has been served to them for some time directly from its plant without complaint. The many irrigation wells and pumping plants in the immediate vicinity show practically no lowering of the water level by long periods of pumping. Applicant's 12-inch well seems to have an abundance of water, the water level remaining practically stationary under intermittent pumping in keeping its 20,000-gallon tanks filled. Its tank is 60 feet high and gives a domestic water pressure of 25 pounds.

ORDER.

George A. Cook and Mary A. Cook, applicants, having applied to the Railroad Commission for authority to sell the property hereinafter described, composing a water plant, and applicant, Garden Grove City Water Company, having applied to the Railroad Commission for authority to buy said property and in payment therefor to convey the real property hereinafter described and pay the sum of \$250.00 in cash, and a public hearing having been held thereon, and it appearing from the evidence submitted that said application should be granted,

It is hereby ordered that George A. Cook and Mary A. Cook are hereby authorized to convey by grant deed free of incumbrance to Garden Grove City Water Company title to the south 74 feet of lot 4 in Block A of Cook's Addition to Garden Grove, in the county of Orange, State of California, as per map recorded in Book 8, page 9, Miscellaneous Maps, records of Orange County, California; together with the well, tanks, engine, pumping plant and equipment upon said premises; also about 1,500 feet of 2-inch iron pipe, service pipes and connections, and about 1,200 feet of 10 and 12-inch cement irrigation

pipe, located on Blocks "A," "B" and "C" of said Cook's Addition, provided said George A. Cook and Mary A. Cook receive at or before the time of delivery of said deed a grant deed conveying free of incumbrance title to "Lot 20, in Block 'B' of Flagg's Addition to Garden Grove, in the county of Orange, State of California, as per map recorded in Book 4, page 15 of Miscellaneous Maps, records of Orange County, California"; and provided they further receive at said time the sum of \$250.00.

The authority hereby given is subject to the following conditions:

1. Garden Grove City Water Company shall assume and discharge all of the obligations now resting upon George A. Cook and Mary A. Cook to serve the public.

2. There shall be no interruption of service of water through the said Cook system.

3. The authority hereby given to convey and acquire property shall not be considered before this Commission, or any other public authority or tribunal, as representing for rate fixing or other purposes than this present application, the actual value of said property.

4. The authority hereby granted shall continue only for a period of sixty (60) days from the date of this order.

5. Both applicants shall report to the Railroad Commission in writing within twenty (20) days after the terms of this order have been fully complied with, each reciting the fact that it has conveyed the property authorized to be conveyed and has received the property hereby authorized to be received, giving the date when the said respective deeds were delivered and received.

Dated at San Francisco, California, this 1st day of April, 1916.

DECISION No. 3225.

IN THE MATTER OF THE APPLICATION OF TUOLUMNE ELECTRIC
COMPANY FOR AN ORDER AUTHORIZING ISSUE OF NOTES.

Application No. 1798.

Decided April 1, 1916.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas this Commission by Decision No. 2691, dated August 12, 1915 (Volume 7, Opinions and Orders of the Railroad Commission of

California, page 874), authorized applicant herein to issue, for a term not in excess of one year from and after August 12, 1915, its promissory notes to the following payees at the following rates of interest and in the following amounts:

Payee	Rate of Interest, per cent	Amount
Garden City Bank and Trust Company-----	7	\$10,000 00
Tuolumne Transmission Company-----	7	2,100 00
P. H. Mabury-----	6	459 10

Provided said notes be issued on or before October 1, 1915; and

Whereas applicant instead of issuing a one-year note to Garden City Bank and Trust Company issued on August 15, 1915, to said Garden City Bank and Trust Company its note for \$10,000.00 payable in six months; and

Whereas under the order of the Commission, as it now reads, applicant is prohibited from renewing the note at any time subsequent to October 1, 1915; and

Whereas applicant desires to renew the aforementioned note; and good cause appearing,

It is hereby ordered that condition No. 5 of the order of this Commission found in Decision No. 2691, dated August 12, 1915, reading: "The authority herein given to issue notes shall apply only to notes issued on or before October 1, 1915," be amended so as to read:

Tuolumne Electric Company is hereby authorized, during the period of one year from and after August 12, 1915, to issue further notes in renewal of the notes herein authorized on the same terms, provided that the combined terms of the notes hereby authorized and those issued in renewal thereof, respectively, shall not exceed one year from August 12, 1915.

It is hereby further ordered that Decision No. 2691, dated August 12, 1915, shall remain in full force and effect except as modified by this first supplemental order.

Dated at San Francisco, California, this 1st day of April, 1916.

DECISION No. 3226.

IN THE MATTER OF THE APPLICATION OF DOMESTIC WATER COMPANY OF SANTA MARIA FOR AN ORDER AUTHORIZING IT TO SELL ITS COMPLETE WATER WORKS AND WATER SYSTEM, AND PROPERTY APPURTENANT OR INCIDENTAL THERETO, TO THE CITY OF SANTA MARIA, AND OF SAID CITY OF SANTA MARIA TO PURCHASE SAID WATER WORKS, WATER SYSTEM AND PROPERTY APPURTENANT OR INCIDENTAL THERETO.

Application No. 2149.

Decided April 1, 1916.

Domestic Water Company of Santa Maria and the City of Santa Maria having reached an agreement to transfer the water system of the former to the latter for a consideration of \$72,500.00, make joint application to this Commission for an order authorizing such transfer. Application granted.

O. W. Jasper, Jr., for Domestic Water Company.

C. L. Preisker, for City of Santa Maria.

REPORT OF THE COMMISSION.

This is a joint application on the part of the City of Santa Maria, a corporation, and Domestic Water Company of Santa Maria, asking for the formal approval of a contract entered into on March 4, 1916, and hereafter presented in detail, whereby the City of Santa Maria agrees to purchase the water system owned by Domestic Water Company of Santa Maria for \$72,500.00.

The City of Santa Maria, at an election held on February 26, 1916, voted favorably upon a proposition to issue \$75,000.00 of bonds for the acquisition of a municipal water works. This bond election succeeded a complete investigation and appraisal by both the city authorities and the water company. Mr. Edward Lynch made an appraisal for the city of Santa Maria, and reported to the trustees on August 2, 1915. The company was represented by its manager, W. S. Everts, and an attempt was made to agree upon the inventory of the property and upon as many of the unit costs as possible. The following figures show the results obtained by the two engineers concerned with the appraisal:

Appraisal of—	Cost, new	Depreciation	Remaining value
Everts for company.....	\$93,880 00	\$13,133 00	\$80,747 00
Lynch for city.....	83,751 00	16,171 00	68,615 00
Later added			1,513 00
			\$70,128 00
Compromise figure agreed upon.....			72,500 00

Subsequent to the election at which bonds for the purchase of the water system were authorized, the City of Santa Maria entered into the following agreement with Domestic Water Company of Santa Maria:

"This agreement, made and entered into this 4th day of March, 1916, by and between the City of Santa Maria, a municipal corporation of the sixth class, of Santa Barbara County, California, acting by and through its duly authorized officers, the party of the first part, and Domestic Water Company of Santa Maria, a corporation organized and existing under and by virtue of the laws of the State of California, acting by and through its duly authorized officers, the party of the second part, witnesseth:

"That for and in consideration of the promises, payments and covenants to be kept, paid and performed by the party of the first part, the party of the second part does hereby agree to sell and convey unto the party of the first part, and the party of the first part hereby agrees to buy of and from the party of the second part, all that certain real and personal property constituting the complete water works and water system now belonging to the party of the second part, together with all property appurtenant or incidental thereto, including therein all property, real and personal, rights, right of way, easements, privileges, franchises, lands, waters, water rights, reservoirs, pipes, canals, ditches, flumes, mains, pumps, pumping stations, tanks, tank houses, dams, power houses, power lines, engines, machinery, apparatus, appliances, tools, and implements of every kind and nature, and all personal property exclusive of bills receivable belonging to the party of the second part and used by it in its (Domestic Water Company of Santa Maria) pumping station and distributing system in the city of Santa Maria, county of Santa Barbara, State of California, for the sum of seventy-two thousand five hundred (72,500) dollars, which the party of the first part promises and agrees to pay to the party of the second part concurrently with the delivery by the party of the second part to the party of the first part of proper transfers and conveyances whereby there shall be granted, transferred, conveyed and assigned to the party of the first part, the property, real and personal, hereinabove mentioned, free and clear of all liens and incumbrances, saving and excepting the lien of taxes for the fiscal year 1916-17, also agrees to deposit with the City of Santa Maria the amount of the state corporation tax, state franchise tax and federal income tax, of the Domestic Water Company, which shall become due and payable during the year 1916, for the period to the date of transfer of Domestic Water Company, to the City of Santa Maria, and which are a lien upon the property covered by this agreement.

"It is further agreed that the above mentioned sale shall be consummated on or about the 1st day of June, 1916, and that the party of the first part shall take possession of the said property hereinbefore described at the date of the consummation of said sale and shall operate said water works and water system without interruption of service to any person or persons now supplied by said party of the second part, with water.

"It is further agreed that all bills, accounts, debts or liabilities of the party of the second part incurred up to the time of the consummation of said sale, shall be by it fully paid and discharged, and it hereby agrees to hold the party of the first part harmless by reason of the existence of any such debts or obligations.

"The party of the second part hereby agrees to pay and cause to be released and canceled of record its bonded indebtedness, and the deed of trust securing the same, on or before the consummation of this agreement.

"The party of the first part hereby agrees that on the consummation of said sale it will and it does hereby release the party of the second part from all obligations to furnish water to the party of the first part, and to its citizens, for fire protection or for any other purpose, and does hereby cancel and annul any obligation of the party of the second part which the party of the second part may be under to said party of the first part by virtue of any franchise, right or privilege granted by it to said party of the second part, and the party of the second part does hereby release the party of the first part, on the consummation of said sale, as aforesaid, from any obligation to pay any charges for fire protection, hydrants, or otherwise, agreed by it to be paid.

"It is further mutually agreed between the parties hereto that all unpaid bills for water sold and furnished by the party of the second part to the party of the first part, or to any of its consumers, up to the time of the consummation of said sale as aforesaid, shall be and remain the property of the party of the second part, and the party of the second part shall have and retain the right to collect all sums due to it as aforesaid.

"It is further agreed that the party of the first part shall pay all taxes and assessments of every kind and nature levied upon said property that may become a lien thereon after the first Monday in March, 1916, including taxes for the fiscal year not yet payable.

"It is further agreed that the said property, real and personal, sold by the party of the second part to the party of the first part, under the terms hereof, shall be conveyed by the party of the second part to the party of the first part free and clear of all liens and incumbrances, except as hereinbefore provided.

"This sale is made and shall be subject to the approval of the Railroad Commission of the State of California, and the party of the first part agrees to join in the application which shall be made to said Railroad Commission for leave to sell said water works and water system, and for permission to buy the same as herein set forth.

"This agreement of sale is also made subject to the express provision that the City of Santa Maria shall be able to sell the municipal bonds authorized at the special election held on the 26th day of February, 1916, in said city, known as Municipal Water Works Bonds, at not less than par, and that all proceedings up to the date of sale shall be found in proper form and the purchase price of said bonds shall be paid therefor to the City of Santa Maria.

“In witness whereof, the party of the first part has caused these presents to be executed by the president of its board of trustees and its city clerk and its corporate seal to be attached by resolution of its board of trustees duly passed on the 6th day of March, 1916, and the party of the second part has caused these presents to be executed by its president and its secretary and its corporate seal to be attached by resolution of its board of directors duly passed at a meeting held on the 4th day of March, 1916.

CITY OF SANTA MARIA.

(Signed) By W. C. OAKLEY,
President of the Board of Trustees.

(Signed) By R. H. LAUGHLIN, City Clerk.

DOMESTIC WATER COMPANY OF SANTA MARIA.

(Signed) By GEORGE F. DETRICK, President.

(Signed) By E. K. PEDLER, Secretary.”

At the hearing in this case, held in Santa Maria on March 24th, it was agreed by the water company that all the property which it possessed on the 4th day of March, 1916, was to be turned over to the City of Santa Maria for the sum of \$72,500.00. This stipulation on the part of the company removes the necessity of an inventory and subsequent appraisal at this date. Provision had been made in the report submitted by Mr. Lynch to the City of Santa Maria for the installation of the electrical equipment which has now been in use a few months and comprises the only important addition to capital account that has been made since the first inventory was taken in July, 1915. Additions to capital account made after March 4, 1916, and up to the date on which the water system was taken over, should reasonably be amicably adjusted between the city and water company.

The hydraulic engineers of this Commission made an investigation of the property and an inspection of the books of the company. The inventory was checked as to all the main items, but it was found that an agreement had evidently not been reached in regard to the actual lengths of pipe composing the system. Records of expenditures made by Domestic Water Company, or its predecessors in Santa Maria, have not been preserved, and no estimate was possible to be made of the actual cost of the water system to its owners. The Commission's engineers found that there was no inclusion in the amount of \$72,500.00 for such intangible items (which are generally matters of dispute) as water rights, going concern, good will, severance damages, etc., although there is a reasonable overhead allowance made by each engineer for matters of supervision, engineering, and administration, etc.

It was found that the unit costs of the pipe system were somewhat larger than usually used for pipe of the same dimension in other localities, but it was determined that this was due to the use of heavy oil well casing, in place of the usual light weight pipe, so common with

water utilities. The Commission's engineers reported at the hearing that they considered the plant and system to be worth the sum of \$72,500.00, and that the city would make no mistake in purchasing the water system at that figure.

It therefore appears to the public advantage that this application be granted according to the following form of order:

ORDER.

Domestic Water Company of Santa Maria having made an application for an order authorizing it to sell its complete water works and water system, and property appurtenant or incidental thereto, to the City of Santa Maria, a municipal corporation, and said City of Santa Maria having joined in said application, and a hearing having been held and being fully apprised in the matter,

It is hereby ordered that Domestic Water Company of Santa Maria be authorized to sell its complete water works and water system and the property appurtenant or incidental thereto, to the City of Santa Maria, a municipal corporation, for the sum of \$72,500.00, according to an agreement entered into between Domestic Water Company of Santa Maria and City of Santa Maria on the 4th day of March, 1916, as hereinbefore exhibited in the opinion preceding this order.

The real estate hereby authorized to be conveyed is more particularly described in Exhibit "A," hereunto annexed and made a part hereof.

Dated at San Francisco, California, this 1st day of April, 1916.

EXHIBIT "A."

All those certain lots, pieces or parcels of land situate, lying and being in the city of Santa Maria, county of Santa Barbara, State of California, and particularly described as follows, to wit:

All that certain real property situate, lying and being in the city of Santa Maria, county of Santa Barbara, State of California, being a part of the southwest quarter of the northwest quarter of section fourteen (14), township ten (10) north, range thirty-four (34) west, of San Bernardino base and meridian, and being bounded and particularly described as follows, to wit:

Commencing at a point on the east line of Broadway, distant one hundred twenty-five (125) feet south from the northwest corner of the land conveyed by Edward T. Ketcham and Julia T. Ketcham (his wife) to Reuben Hart, by deed dated March 1, 1904, and recorded March 4, 1904, in Book 95 of Deeds, page 197, Santa Barbara County records, said northwest corner being the point of intersection of the south line of Fifth street with the east line of Broadway; thence from said point of beginning running south along the east line of Broadway, one hundred eight (108) feet to the north line of the property conveyed by R. D. Cook and wife

to Mrs. Barbara Turman by deed dated January 24, 1877, and recorded August 9, 1878, in Book "T" of Deeds, page 150 *et seq.*, Santa Barbara County records; thence at a right angle and along the said Turman lot and a lot of John Long, east three hundred ninety-five (395) feet to the west line of McClelland street if extended south; thence at a right angle along the said west line of McClelland street north two hundred thirty-three (233) feet to the south line of Fifth street; thence at a right angle and along the said line of Fifth street, west two hundred twenty (220) feet to the northeast corner of the lot conveyed to Reuben Hart, widower, to Edward T. Ketcham by deed dated April 4, 1905, and recorded April 24, 1905, in Book 97 of Deeds, page 303, Santa Barbara County records; thence at a right angle south and along the said Ketcham lot sixty (60) feet; thence at a right angle and along the south line of said Ketcham lot, west twenty-five (25) feet; thence at a right angle south sixty-five (65) feet; thence at a right angle west one hundred fifty (150) feet to the east line of Broadway and point of beginning.

Also, all rights, rights of way, easements, privileges, franchises, waters, water rights, reservoirs, pipes, canals, ditches, flumes, mains, tanks, tank houses, dams, trestles, pipes, pipe lines, aqueducts, power houses, power lines, machinery, dynamos, pumps, pumping stations, engines, apparatus, appliances, tools, implements and machinery of every kind and description used in, upon or about or in any manner connected with the Domestic Water Company of Santa Maria.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

DECISION No. 3227.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, AUTHORIZING IT TO ISSUE ITS COMMON CAPITAL STOCK IN THE MANNER AND FOR THE PURPOSES SPECIFIED THEREIN.

Application No. 2056.

Decided April 4, 1916.

Applicant applies for permission to issue 10,211 shares of its common capital stock of the par value of \$100.00 per share, to be distributed as a dividend among its stockholders, contending that as it has used \$1,021,100.00 of its earnings to retire bonds it should be permitted to issue a like amount of common stock, and instead of selling such stock and refunding its treasury with the proceeds, it proposes to issue it direct to common stockholders in the form of a dividend.

A review of applicant's financial condition reveals the fact that it still has a considerable unamortized discount on its bonds and preferred stock; also, that with the exception of the last few years it has made practically no provisions whatever for depreciation of its property, and that the amount provided during the last few years has been far below the average set up by utilities of a like nature.

Held, That it is the Commission's intention to permit utilities, and it has so acted with applicant, a rate of return sufficiently large to make them in every way sound financially, but it is also obligatory upon the utilities to take such actions only, as tend to conserve their assets, that such benefits are not to be used solely for dividend purposes. That to carry sinking fund reserves in surplus does not tend to produce a more favorable relation between assets and liabilities when dividends are declared therefrom. Should applicant's sinking fund reserves be deducted from surplus there would remain for dividends a sum amounting to only \$1,288,279.37.

Held, That applicant herein has failed to set up and maintain a proper depreciation fund, neither has it taken certain necessary steps tending toward the conservation of its assets. Application denied.

Charles P. Cutten and W. B. Bosley, for Applicant.

E. P. E. Troy, for Public Ownership Association.

REPORT OF THE COMMISSION.

EDGERTON, Commissioner.

This is an application of Pacific Gas and Electric Company for authority to issue 10,211 shares of its common capital stock of the par value of \$100.00 per share.

Applicant proposes to issue this stock to refund sinking fund payments of the face value of \$1,021,100.00.

Pacific Gas and Electric Company is engaged in the sale and distribution of gas and electricity in the cities of the San Francisco Bay section, including San Francisco, Oakland, Berkeley and Alameda; the Santa Clara Valley, including San Jose; the San Joaquin Valley as far south as Fresno; and a large section of the Sacramento Valley, including the city of Sacramento. The company also operates water systems, and owns and operates a street railway system in the city of Sacramento. It is the largest distributor of gas and electricity in the State of California.

The affairs of this corporation have been reviewed in detail in previous decisions of this Commission, and it will not be necessary herein to set forth a full description of its properties nor of the territory which it serves.

Applicant desires to capitalize its surplus profits used to pay or to be used to pay sinking fund obligations devoted to the redemption of bonds during 1914, 1915 and 1916. It reports the following:

Sinking fund payments made from January 1, 1914, to January 1, 1916 -----	\$2,376,000 00
Sinking fund payments to be made from January 1, 1916, to December 31, 1916-----	762,015 63
Total -----	\$3,138,015 63
Less amount capitalized in pursuance of Decision No. 2385, dated May 12, 1915 -----	1,926,558 00
Balance not capitalized -----	\$1,211,457 63

Pacific Gas and Electric Company urges that if it uses \$1,021,100.00 of its earnings to retire outstanding bonds, it should be permitted thereafter to issue its common capital stock of equal par value, or \$1,021,100.00. The company states that it could use this money for distribution among its stockholders and could thereafter sell its common stock to such stockholders, reacquire this sum of \$1,021,100.00 and devote it to the redemption of bonds, thus accomplishing by various steps what it now proposes to do directly.

This application is made on the theory that if common stock be authorized in the sum requested, it will be distributed as a dividend on the company's outstanding common capital stock.

Pacific Gas and Electric Company reports stock authorized and outstanding as of January 1, 1916, as follows:

Class -----	Authorized -----	Outstanding -----
First preferred -----	\$50,000,000 00	\$12,206,200 00
Original preferred -----	10,000,000 00	10,000,000 00
Common -----	100,000,000 00	65,732,724 66
Totals -----	\$160,000,000 00	\$87,938,924 66

Of the common stock, \$34,035,858.00 is held by the public and \$31,696,866.66, not subject to dividends, by subsidiary companies.

In Decision No. 2031, dated January 3, 1916, this company has been authorized to issue an additional \$2,500,000.00 of preferred stock.

The original preferred stock of the applicant is convertible into first preferred stock on the basis of one share of original preferred for 1.025 shares of first preferred stock, and we may, therefore, assume that the original preferred stock will later be changed into first preferred.

For the calendar year ending December 31, 1915, the applicant submits the following statement of operating revenues and expenses:

Income account Pacific Gas and Electric Company for year ended December 31, 1915.		
Electric operations:		
Operating revenues -----	\$10,124,560	89
Operating expenses -----	5,505,686	43
Net operating revenues -----		\$4,618,874 46
Gas operations:		
Operating revenues -----	\$7,560,185	33
Operating expenses -----	4,400,597	19
Net operating revenues -----		3,159,588 14
Water operations:		
Operating revenues -----	\$420,218	85
Operating expenses -----	208,204	24
Net operating revenues -----		212,012 61
Electric railway operations:		
Operating revenues -----	\$425,337	97
Operating expenses -----	333,990	04
Net operating revenues -----		91,347 93
Nonoperating revenues:		
Miscellaneous rent revenue -----	\$20,918	91
Interest -----	51,561	92
Dividends -----	512	40
Sinking and reserve fund accretions -----	165,734	41
Miscellaneous nonoperating revenues (net) --	151,639	90
Total nonoperating revenue -----		390,367 54
Gross corporate income -----		\$8,472,190 68
Reductions:		
Uncollectible bills -----	\$108,000	00
Nonoperating taxes -----	10,034	71
Interest accrued on funded debt -----	3,808,507	75
Other interest deductions -----	176,902	77
Rents of conduits, poles and supports (electric) -----	4,431	33
Amortization of debt discount and expense -----	160,410	43
Total deductions -----		4,259,424 33
Balance of year carried to corporate surplus -----		\$4,212,766 35

NOTE.—Foregoing income accounts include \$398,288.23 charged in excess of ordinance rates now in litigation in Federal courts.

At the hearing upon this matter attention was directed to the value of applicant's property, the amount of depreciation which had occurred therein, the condition of applicant's surplus and the relationship between applicant's assets and its various classes of stocks and bonds. Such an inquiry was necessary by reason of the statement of witnesses

called by the Pacific Gas and Electric Company that it was the intention to disburse to the holders of common stock during the year 1916, not only the stock for the issue of which petition is made herein, but an additional dividend in the form of cash.

In Decision No. 2385 (Application No. 1633), Volume 6, Opinions and Orders of the Railroad Commission of California, page 926, this Commission authorized the applicant to issue common stock to be distributed to its stockholders for the purpose of reimbursing the applicant for the use of money in its treasury for the redemption of bonds during the calendar years 1914 and 1915. Such authorization was granted upon certain specified conditions. The Commission ruled that the amount of such stock disbursement should be charged against the company's "Corporate surplus unappropriated" and not against its sinking fund reserves. The decision was rendered on the evidence as presented in that proceeding. No evidence was presented in Application No. 1633 showing the valuation of the applicant's entire property, or the relationship between such value and the amount of stock and bonds of applicant outstanding. Such evidence has been presented herein, both by the applicant and the Commission's experts, and demands most careful consideration from this Commission.

Mr. A. F. Hockenbeamer, for the applicant company, submitted an estimate of the value of its physical properties as of December 31, 1915, in the sum of \$98,837,489.51. This was the company's estimate of the reproduction cost new of all of its properties, with the exception of water rights, franchises, development cost, going value, patents or rights to patent processes and devices. The company submitted no data bearing upon values other than those embraced within this estimate.

No estimate of reproduction cost depreciated was submitted by the company, although it was admitted that there was such depreciation, and it was stated on behalf of the company that it probably would not exceed 10 per cent of depreciable property.

Mr. L. S. Ready, of this Commission's engineering department, analyzed the figures of the applicant. He deducted the sum of \$1,768,-151.00 in accordance with a previous ruling by the Commission in a former proceeding. In all other respects he made no attempt to present an independent appraisal nor to question the unit figures or inventory of the applicant. He did, however, make a calculation as to depreciation, and as a result submitted an estimate of reproduction cost depreciated of \$72,468,375.00. In order to compare this figure with that submitted by the company, it will be necessary to add the company's figure for construction work in progress and working capital, which will bring Mr. Ready's total to \$79,623,073.00. The

company submitted a statement of its indebtedness as of December 31, 1915, showing bonds outstanding in the hands of the public of \$76,172,800.00.

It has in addition certain contingent liabilities which might increase this indebtedness.

The applicant reports a bond discount unamortized of \$4,283,526.51.

In the foregoing estimates I have to a very large extent used the figures of the company itself for the purpose of comparative analysis. Upon these properties there have been issued, and sold to the public, bonds as above stated in the sum of \$76,172,800.00, on which a discount of \$4,283,526.51 remains to be amortized. First preferred stock had been issued up to December 31, 1915, in the amount of \$12,206,200.00, on which a discount of approximately \$2,135,000.00 remains unamortized. Upon these same assets has been predicated an issue of original preferred stock in the amount of \$10,000,000.00 upon which a discount also remains unamortized. In addition, the applicant has put out to the public \$34,035,858.00 of its common stock.

It is necessary to consider the original preferred as eventually passing into first preferred and sharing equally with it. This original preferred, when converted, will amount to \$10,250,000.00 par value of first preferred.

✓ Inquiry was made at the hearing to determine if the applicant had adequately provided against the depreciation of its properties. It appears that to 1912 this company had made no clear provision for depreciation reserve and such accumulation as now exists has been set up during the past four years. During the years 1912, 1913, 1914 and 1915, inclusive, this company set aside for depreciation the sum of \$6,342,462.53, and during the same period charged against this reserve \$4,472,906.62, leaving as the balance in its depreciation reserve fund as of December 31, 1915, \$2,772,848.01.

Evidence was introduced at the hearing showing the depreciation ratios and reserves of the seven largest gas and electric companies of California, as well as the Spring Valley Water Company. The Spring Valley Water Company was chosen by reason of the fact that it operates also, in the San Francisco Bay territory, a section covered by the Pacific Gas and Electric Company. The figures were taken from the annual reports submitted by these companies to this Commission for the year 1914. While they do not establish final ratios, they are the best comparative statistics at hand, and are indicative of the situation of these companies in respect to their depreciation reserves.

I take from this testimony the showing of the ratio of depreciation reserve to tangible capital and to the gross operating revenues for 1914. The result is as follows:

Name of company	Ratio of depreciation reserve to—	
	Tangible capital, per cent	Operating revenues, per cent
Pacific Gas and Electric Company.....	2.21	14.61
Pacific Light and Power Corporation.....	4.95	72.89
Great Western Power Company.....	.00	.00
Los Angeles Gas and Electric Corporation.....	19.08	69.04
Southern California Edison Company.....	8.75	45.05
San Diego Consolidated Gas and Electric Company.....	8.38	31.46
San Joaquin Light and Power Corporation.....	5.52	31.63
Spring Valley Water Company.....	4.07	77.12

It will be seen from the above that the Pacific Gas and Electric Company falls far below the average in the ratio of its depreciation reserve to tangible capital or to its gross operating revenues. Of all of the companies enumerated it makes the smallest comparative provision for depreciation, with the exception of the Great Western Power Company, which has provided no depreciation whatever.

Pacific Gas and Electric Company has made insufficient provision for the depreciation of its properties. The failure is particularly conspicuous prior to 1912, when the Public Utilities Act became effective. Up to that time the company had no reserve to take care of this depreciation.

Exhaustive investigation into the physical condition of many gas and electric companies in this State has developed the fact that even where the properties have been kept in an excellent state of repair and highly maintained, the physical condition is not greater than 85 per cent of new. Comparing the properties of these gas and electric companies with applicant, it is entirely fair to applicant to assume that its physical condition is not greater than 85 per cent of new. Considering the depreciable property claimed by applicant, this comparison with the properties of like companies supports the calculation of depreciation made by Mr. Ready.

At the hearing upon this matter some inquiry was made into the company's surplus and the elements of which it was constituted. The company reported a surplus as of December 31, 1915, in the sum of \$5,120,677.73. This surplus consists in large part of moneys appropriated for sinking fund purposes, the total of these appropriations amounting to \$3,832,398.36.

While I recognize that the relation of a corporation's assets to its capitalization may be such as to make it relatively unimportant whether sinking fund reserves be allowed to remain in surplus, I am convinced

that, as has heretofore been shown, the relation of applicant's assets to its capitalization at this time is such as to make it improper that it should set aside sinking fund reserves which are designed to reduce capitalization as compared to assets, and at the same time allow these reserves to appear in surplus out of which dividends will be declared, thus, in effect, nullifying the benefits by way of decreased capitalization which would result if the money represented by the dividends had been allowed to remain in assets.

If applicant's sinking fund reserves are deducted from surplus as they should be on the facts of this case before dividends are paid, it will leave available for dividends only \$1,288,279.37.

This company has received authority from this Commission to issue \$15,000,000.00 par value of preferred stock. To date it reports the sale of approximately \$13,387,000.00 of this stock. In this sale the company has widely advertised the authority given by this Commission. It has through these advertisements and its campaign of salesmanship acquired approximately 5,000 new shareholders, who have invested in this preferred stock. This stock, of course, is not guaranteed by the State, nor is any purchaser assured of any peculiar protection or right by reason of its issue.

While the rule of the buyer's risk must be present here as elsewhere, this company, having used this Commission's authority to bring 5,000 persons into a new community of its stock ownership, should not adopt a policy that can not fail to impair the position of these investors. This condition is emphasized by the evidence and the practical admission by the company that its depreciation reserves have been inadequate. At the time when it is clear that revenues should be conserved against this depreciation and to build up assets, it is proposed to distribute these revenues to the holders of the common stock.

It is the announced policy of applicant to continue the payment of cash dividends on common stock once they have been commenced. So we are confronted with a proposed issue of common stock as a part of a dividend, the other part to be cash and thereafter in regular course the payment of dividends on the stock thus issued.

We urge upon applicant the policy of investing in plant a reasonable part of its net earnings until such time as its assets bear a better relation to its capitalization.

In the absence of agreement by applicant on this policy, I recommend that the Commission take immediate steps to compel the setting up of a proper depreciation reserve out of income or surplus.

With applicant, as with other utilities in California, this Commission has never fixed rates on a basis of the least possible legal return to the company. On the contrary, the Commission has been liberal with a view to making strong and financially healthy the public utility

companies. However, with the benefits of this liberality, should, of course, go the obligation resting upon the company toward the conservation of assets.

If this applicant does not, of its own accord, conserve its assets, it will be necessary for this Commission to require that it do so. In such event I recommend that this Commission call an investigation into the affairs of this company, particularly with reference to its depreciation reserve, its sinking fund appropriations, its surplus account, the unamortized discount on its preferred stock and other matters relating to its books of account, to require that a proper relationship be established and maintained between applicant's assets and its obligations to its bondholders and preferred stockholders.

Accordingly I recommend that this application be denied and submit herewith the following form of order:

ORDER.

Pacific Gas and Electric Company having applied to this Commission for authority to issue 10,211 shares of its common capital stock of a par value of \$100.00 per share, and a hearing having been held, and it appearing to the Commission for the reasons set out in the foregoing opinion that the same should be denied,

It is hereby ordered that the same be and it is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 4th day of April, 1916.

DECISION No. 3228.

IN THE MATTER OF THE APPLICATION OF NEVADA-CALIFORNIA-OREGON RAILWAY FOR AN ORDER RATIFYING AND APPROVING THE ISSUE OF CERTAIN BONDS OF SAID CORPORATION HERETOFORE INADVERTENTLY ISSUED WITHOUT AUTHORITY OF THIS COMMISSION.

Application No. 2055.

Decided April 4, 1916.

Applicant applies for permission to issue bonds of the face value of \$519,000.00; of this amount \$402,000.00 are to be issued in lieu of bonds heretofore issued without the authorization of this Commission, and the additional \$117,000.00 for betterments and improvements. It appearing that subsequent to the filing of this application, applicant issued \$15,000.00 face value of such bonds without waiting for the Commission's authorization, it is accordingly authorized to issue \$402,000.00 face value of bonds in lieu of those heretofore issued through

inadvertance; authorization, however, as regards the balance of application, deferred pending an explanation as to the reason for issuing bonds subsequent to the filing of an application therefor, but before such application is acted upon.

James B. Glynn, for Applicant.

REPORT OF THE COMMISSION.

DEVLIN, Commissioner.

This is an application of Nevada-California-Oregon Railway for authority to issue \$519,000.00 face amount of its 5 per cent 20-year bonds, dated May 1, 1899. Applicant desires to issue \$417,000.00 face amount of bonds in lieu of a like amount of bonds issued without the authority of this Commission. The remaining \$102,000.00 face amount of bonds, applicant desires to issue from time to time as may be necessary to reimburse its treasury for capital expenditures. Reference will hereafter be made to bonds issued without an order from this Commission.

Nevada-California-Oregon Railway was organized March 24, 1888, under the laws of the State of Nevada, for the purpose of acquiring the line of railway known as the Nevada-California Railroad. At the time of its organization, applicant acquired a line of railway extending from Reno, Nevada, to Red Rock, Lassen County, California, a distance of approximately 48 miles. Subsequently, applicant extended its line of railway to Lakeview, Oregon, 235 miles north of Reno. The line is of narrow gauge.

It appears that on May 1, 1899, the date of applicant's mortgage securing \$1,500,000.00 of bonds, it owned a line of railway extending from Reno, Nevada, northward to Amedee, California, a distance of approximately 79 miles. Applicant's line of railway from Amedee to Termo, 51 miles, was placed in operation July 1, 1900; from Termo to Madeline, 14 miles, on April 1, 1902; from Madeline to Alturas, 40 miles, during December, 1909, and from Alturas to Lakeview, 54 miles, during January, 1912.

By Decision No. 2659, dated August 3, 1915, applicant was authorized to acquire the property of Sierra and Mohawk Railway Company, which owned a line of railway extending from Plumas Junction, Lassen County, California, westward through Plumas County to Clio, a distance of 36.73 miles.

Applicant's main line track located in California extends from Purdy, Sierra County, to Pine Creek, Modoc County, a distance of 196 miles. It crosses the extreme northeastern portion of Sierra County and passes through the eastern portion of Lassen and Modoc counties.

Applicant's line of railway after leaving Reno, Nevada, passes through a sparsely settled country.

According to the annual reports filed with this Commission, the freight traffic over Nevada-California-Oregon Railway during the past four years consisted of the following commodities:

Commodities	1912 (tons)	1914 (tons)	1913 (tons)	1915 (tons)
Products of agriculture.....	2,992	6,329	3,213	2,444
Products of animals.....	13,862	18,288	25,662	23,790
Products of mines.....	1,710	1,839	1,725	4,505
Products of forests.....	9,822	8,181	3,726	5,271
Manufactures.....	9,789	3,910	3,883	4,103
Merchandise and miscellaneous.....	5,730	8,507	8,494	10,383
Totals	43,905	47,054	46,703	50,496

The traffic reports show that the greatest revenue of the road comes from the shipment of cattle. During 1912, 31.5 per cent of the freight tonnage represented products of animals; during 1913, 38.8 per cent; during 1914, 55 per cent; and during 1915, 47 per cent.

The railway construction is light, the gradients are heavy and the general conditions of operation below the average. During the past eighteen months the management has expended large sums to pay for the cost of deferred maintenance, and has put forth unusual efforts to rehabilitate the roadbed.

Nevada-California-Oregon Railway connects with the Western Pacific at Hackstaff for interchange of traffic. It also connects with the lines of the Southern Pacific at Reno. Within the last three years, however, the value of this connection has been lessened through the construction by the Southern Pacific Company of the Fernley-Lassen Railway. This railway runs from Fernley, Nevada, through Lassen County, California, tapping the rich section around Susanville, which had hitherto been tributary to the Nevada-California-Oregon Railway. At Reno, the railway also connects with the Virginia and Truckee Railroad running south from Reno.

Nevada-California-Oregon Railway has an authorized capital stock issue of \$2,200,000.00, divided into 14,500 shares of common and 7,500 shares of preferred stock. The par value of each share is \$100.00. The preferred stockholders are entitled to an annual dividend of 5 per cent. After the payment of the 5 per cent dividend on the preferred stock, both common and preferred stockholders are entitled to share equally in the surplus earnings of the company. All of applicant's stock is outstanding. Of the 14,500 shares of common stock, 7,051 shares on June 30, 1915, are owned by the Estate of Charles Moran. This estate also owns 3,562 of the 7,500 shares of preferred stock. The evidence submitted in support of this application shows that the Estate of Charles Moran, Moran Brothers, or relatives, own practically all of the stock of

Nevada-California-Oregon Railway. Since 1907, the company has paid dividends on its preferred stock as follows:

Year	Per cent	Amount
1907 -----	4	\$30,000 00
1908 -----	5	37,500 00
1909 -----	5	37,500 00
1910 -----	5	37,500 00
1911 -----	3	22,500 00
1913 -----	2	15,000 00

In addition to the foregoing, the company in 1909 paid a 1 per cent dividend, amounting to \$14,500.00, on its common stock and paid a dividend of like amount on its common stock in 1910.

Nevada-California-Oregon Railway has an authorized bond issue of \$1,500,000.00. The payment of these bonds is secured by a mortgage or deed of trust covering all of the property of the company. The mortgage or deed of trust is executed to D. Comyn Moran and Amedee Moran, trustees. Subsequent to the execution of the mortgage, the Union Trust Company of New York was appointed trustee as successor to D. Comyn Moran and Amedee Moran. The bonds are dated May 1, 1899, and mature May 1, 1919. The bonds are of the denomination of \$1,000.00 each. The deed of trust authorizes the board of directors of the company to determine the rate of interest to be paid on the bonds. However, in no event shall the interest rate exceed 6 per cent. Should the company issue 6 per cent bonds, it is authorized to redeem them at 120 and accrued interest. If bonds are issued bearing less than 6 per cent interest per annum, the company is permitted to redeem them at 110 and accrued interest. Beginning January 1, 1900, and annually thereafter, the company is obligated to pay the trustee for the purpose of creating a sinking fund an amount equal to 1 per cent of the face amount of bonds outstanding. In the event of the non-payment of interest or principal when due, the holders of not less than 10 per cent of the face amount of bonds outstanding have the power to compel the trustee to initiate foreclosure proceedings. Default in any other respect may be waived by the trustee unless otherwise directed by the holders of a majority of the bonds outstanding. No holder of bonds is entitled to bring any action under the deed of trust unless and until the trustee, on the request in writing of the holders of a majority of the bonds outstanding, shall have refused to discharge its duties.

Applicant reports that prior to March 23, 1912, the effective date of the Public Utilities Act, it issued bonds in the amount of \$981,000.00. Subsequent to March 23, 1912, applicant issued \$47,000.00 face amount of bonds without an order from this Commission.

Of the bonds issued subsequent to March 23, 1912, \$199,000.00 face amount of bonds were sold at 97½ and accrued interest; \$19,000.00 face amount of bonds at 99 and accrued interest, and \$199,000.00 face amount at 90 and accrued interest. Through its sinking fund, applicant has retired bonds in the amount of \$128,000.00. Applicant at this time has bonds in the amount of \$1,270,000.00 outstanding. The evidence indicates that all of these bonds were issued to and are held by the Estate of Charles Moran or relatives of said Charles Moran.

On June 30, 1915, applicant reported to this Commission assets and liabilities as follows:

Assets.

Investments.

Road and equipments -----	\$4,207,934 31
Sinking funds -----	70 29
Miscellaneous physical property -----	18,143 55

Other improvements.

Notes -----	18,088 88
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Total investments -----	\$4,244,237 03
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Current assets.

Cash -----	22,531 04
Traffic and car service balances receivable -----	4,125 55
Net balance receivable from agents and conductors -----	9,947 49
Miscellaneous accounts receivable -----	10,675 10
Materials and supplies -----	31,053 95
Interest and dividends receivable -----	73 32
Other current assets -----	933 86

Total current assets -----	\$79,340 31
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Unadjusted debits.

Rents and insurance premiums paid in advance -----	\$908 26
Other unadjusted debits -----	4,653 72

Total unadjusted debits -----	\$5,561 98
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Total assets -----	\$4,329,139 32
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Liabilities.

Stock.

Capital stock -----	\$2,200,000 00
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Long-term debt.

Funded debt unmatured -----	1,235,000 00
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Current liabilities.

Traffic and car service balances payable -----	\$20,321 68
Audited accounts and wages payable -----	36,469 14
Miscellaneous accounts payable -----	9,696 42
Interest matured unpaid -----	325 00
Unmatured interest account -----	10,291 67

Total current liabilities -----	77,103 91
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Deferred liabilities.

Other deferred liabilities -----	246 14
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Unadjusted credits.

Tax liability -----	\$4,286 74
Accrued depreciation—road -----	114,887 42
Accrued depreciation—equipment -----	95,564 56
Accrued depreciation—miscellaneous physical property -----	723 72
Other unadjusted credits -----	119 33

Other unadjusted credits -----	119 33
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Corporate surplus.

Additions to property through income and surplus--	\$407,537 50
Funded debt retired through income and surplus----	85,260 00
Sinking fund and miscellaneous fund reserves-----	16,514 24

Total surplus -----	\$509,311 74
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Profit and loss—credit—balance -----	91,895 76
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Total corporate surplus -----	601,207 50
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Total liabilities -----	\$4,329,139 32
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For the fiscal years ending June 30, 1912, 1913, 1914, and 1915, and for the seven months ending January 31, 1916, applicant has reported to this Commission revenues and expenses as follows:

Item	1912	1913	1914	1915	Seven months ending July 31, 1916
Rail operations—revenues	\$86,500 05	\$403,979 10	\$397,259 81	\$377,748 51	\$234,551 74
Rail operations—expenses	261,745 14	283,632 40	298,191 75	367,558 52	198,751 26
Net revenue—rail operations	\$124,844 91	\$120,346 70	\$99,065 06	\$10,189 99	\$35,800 48
Auxiliary operations—revenues	\$2,221 55	\$5,670 55	\$5,251 10	-----	-----
Auxiliary operations—expenses	1,081 84	6,029 95	4,225 99	-----	-----
Net revenue—auxiliary operations	\$1,139 71	\$359 40	\$1,025 11	-----	-----
Net railway operating revenue	\$125,984 62	\$119,987 30	\$70,090 17	\$10,189 99	\$35,840 48
Railway tax accruals	18,841 30	18,841 32	20,987 69	21,569 29	14,391 07
Railway operating income	\$107,143 32	\$101,145 98	\$49,102 48	*\$11,319 30	\$21,409 41
Other income:					
Hire of equipment	\$2,236 37	\$500 49	\$687 36	\$931 87	-----
Miscellaneous rents	1,634 11	2,175 50	2,321 15	-----	-----
Dividends	-----	330 00	-----	-----	-----
Interest	506 52	436 41	1,089 69	1,111 15	-----
Miscellaneous	-----	-----	-----	535 80	\$1,284 52
Total other income	\$1,377 00	\$3,442 43	\$4,098 20	\$2,578 82	\$1,284 52
Gross income	\$111,520 32	\$104,588 41	\$53,200 68	*\$8,740 48	\$22,693 99
Deductions from gross income:					
Interest on funded debt	\$41,813 90	\$18,047 23	\$50,508 58	\$55,527 09	\$36,376 37
Other interest	4,190 57	5,964 70	4,142 33	2,625 58	-----
Rent	102 48	214 00	211 71	192 71	-----
Amortization of funded debt discount	246 02	278 90	83 34	789 58	-----
Miscellaneous	-----	-----	171 00	746 39	365 72
Total deductions	\$46,352 97	\$54,504 83	\$55,116 96	\$59,881 35	\$36,742 09
Net income	\$65,167 35	\$50,083 58	*\$1,916 28	*\$68,621 83	*\$14,048 16
Disposition of net income:					
Sinking fund payments	9,710 00	14,080 00	13,939 98	13,795 00	7,991 69
Balance carried to profit and loss account	\$55,457 35	\$36,003 58	*\$15,856 26	*\$82,416 83	*\$22,039 85

*Loss.

It will be noted that applicant's operating revenues decrease from \$403,979.10 for the year ending June 30, 1913, to \$377,748.51 for the year ending June 30, 1915. This decrease in the operating revenues is due in part to a voluntary reduction in the passenger rates from the 7 cents basis to a 5½ cents basis per mile; to the competition which came through the construction by the Southern Pacific of the Fernley-Lassen branch into Susanville; to acute automobile competition; to the lull in the development of the country and to the temporary falling off in the resort business at points along the line. While there has been a decrease in the operating revenues amounting to \$26,230.59 from 1913 to 1915, the operating expenses for the same period show an increase of \$83,926.12.

The increase in the operating expenses is primarily due to the failure on the part of those who had in charge the management of this property during years past to properly maintain it. During the past two years, the present management has expended large sums, relatively speaking, to meet the deferred maintenance. The expenditures for maintenance of way and structures in 1915 show an increase of \$50,219.55 as compared with 1914. The ratio of operating expenses to operating revenues are reported as follows:

Year ending June 30, 1912.....	67.71
Year ending June 30, 1913.....	70.21
Year ending June 30, 1914.....	81.19
Year ending June 30, 1915.....	97.30
Seven months ending January 31, 1916.....	84.73

In its application as originally filed, Nevada-California-Oregon Railway alleged that since March 23, 1912, up to and including January 1, 1916, for the purpose of acquiring, constructing, completing and extending its line of railway northward from Amadee, and for the purpose of the improvement and maintenance of its service

in making additions and betterments thereto, it sold the following bonds:

Number of bonds	Face amount	Date of sale	Price
1107 to 1131, inclusive.....	\$25,000	9/30/12	97½ and accrued interest
890 to 935, inclusive.....	46,000	10/23/12	97½ and accrued interest
1132 to 1135, inclusive.....	4,000	10/ 4/12	99 and accrued interest
936	1,000	12/ 2/12	99 and accrued interest
937 to 950, inclusive.....	14,000	1/ 8/13	99 and accrued interest
975 to 1002, inclusive.....	28,000	2/11/13	97½ and accrued interest
951 to 964, inclusive.....	100,000	5/ 1/14	97½ and accrued interest
1103 to 1024, inclusive.....			
1136 to 1199, inclusive.....			
1200 to 1300, inclusive.....	101,000	4/19/15	90 and accrued interest
1301 to 1320, inclusive.....	20,000	4/20/15	90 and accrued interest
1321 to 1335, inclusive.....	15,000	4/22/15	90 and accrued interest
1336 to 1345, inclusive.....	10,000	4/23/15	90 and accrued interest
1346 to 1347, inclusive.....	2,000	4/24/15	90 and accrued interest
1348 to 1351, inclusive.....	4,000	4/30/15	90 and accrued interest
1352 to 1353, inclusive.....	2,000	5/ 1/15	90 and accrued interest
1354 to 1361, inclusive.....	8,000	5/ 6/15	90 and accrued interest
1362 to 1363, inclusive.....	2,000	5/17/15	90 and accrued interest
1364 to 1383, inclusive.....	20,000	9/23/15	90 and accrued interest
Total	\$402,000		

Applicant further alleged that the \$402,000.00 face amount of bonds were inadvertently issued without an order from or the approval of this Commission, and without any intention to violate the provisions of the Public Utilities Act. Upon being advised that the aforementioned bonds were issued in violation of the Public Utilities Act and, therefore, void, counsel for applicant at once proceeded to prepare the application now before the Commission. This application was filed with the Commission on January 21, 1916. On that date, applicant had in its treasury \$117,000.00 face amount of bonds. At the hearing upon this matter, it was disclosed that of these bonds, \$15,000.00 were sold on February 25 or 26, 1916.

While I have no reason to doubt the allegation that \$402,000.00 face amount of bonds were issued without an intention of violating the Public Utilities Act, I feel that no adequate showing has been made as to the \$15,000.00 face amount of bonds. These bonds were issued subsequent to the filing of the application herein, and after applicant's attention had been called to the provisions of the Public Utilities Act. While an attempt was made to justify the issue of the \$15,000.00 face amount of bonds on the ground of an emergency, yet the evidence submitted in support of this contention is not convincing. Mr. McCartney, secretary and auditor for applicant, testified that the proceeds from the sale of the \$15,000.00 of bonds are held in the company's treasury as a reimbursement to meet the bond interest due in May. If such is the case, I fail to see the existence of an

emergency which necessitated the issue of \$15,000.00 face amount of bonds contrary to the provisions of the Public Utilities Act and while the application for authority to issue said bonds was pending before this Commission. I am of the opinion that applicant's showing in regard to the issue of the \$15,000.00 of bonds has been entirely inadequate, and, therefore, recommend that the authority to issue bonds in lieu of said \$15,000.00 be held in abeyance until such time as applicant shall have furnished to this Commission satisfactory information showing that the bonds have been issued with no intention of violating the provisions of the Public Utilities Act or escaping the jurisdiction of this Commission. This, of course, has no bearing on the remaining \$102,000.00 face amount of bonds, but inasmuch as no evidence has been submitted showing the immediate need of the issue of these bonds, I am of the opinion that no inconvenience will be caused to applicant if the authority to issue said \$102,000.00 face amount of bonds be withheld until such time as applicant shall have furnished this Commission with satisfactory information relating to the issue of the aforesaid \$15,000.00 face amount of bonds.

I, therefore, recommend that this application be granted subject to the conditions found in the following order:

ORDER.

Nevada-California-Oregon Railway having applied to this Commission for an order authorizing it to issue \$519,000.00 face amount of first mortgage 5 per cent 20-year bonds due and payable May 1, 1919, and a public hearing having been held and the Commission finding that the purposes for which applicant desires to use the proceeds are not reasonably chargeable to operating expenses or to income, and the Commission being of the opinion that applicant's request, subject to the conditions hereinafter specified, should be granted,

It is hereby ordered that of the \$519,000.00 herein petitioned for, Nevada-California-Oregon Railway be given authority, and it is hereby given authority, to issue \$402,000.00 face amount of first mortgage 5 per cent 20-year bonds due and payable May 1, 1919.

The authority to issue said bonds is given upon the following conditions and not otherwise:

1. Bonds in the sum of \$402,000.00 may be issued in lieu of a like amount of bonds heretofore issued without the authority of this Commission, provided said bonds are issued at the same price as the bonds originally issued without an order from this Commission; the \$402,000.00 heretofore issued to be returned to the treasury of the company and report of such return made to the Commission.

2. No part of the remaining \$117,000.00 face amount of bonds shall be issued until this Commission has issued a supplemental order finding that applicant has furnished this Commission with satisfactory

evidence showing that \$15,000.00 face amount of bonds mentioned in the foregoing opinion have been issued through inadvertence and without intention of violating the Public Utilities Act.

3. The \$117,000.00 face amount of bonds shall be issued so as to net applicant such price as may be fixed by this Commission in a supplemental order.

4. Nevada-California-Oregon Railway shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

5. The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act, as amended.

6. The authority herein granted shall apply only to such bonds as may be issued on or before December 31, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 4th day of April, 1916.

DECISION No. 3229.

IN THE MATTER OF THE VALUATION OF THE PROPERTY OF THE CENTRAL PACIFIC RAILWAY COMPANY BETWEEN MOJAVE, KERN COUNTY, AND OWENYO, INYO COUNTY, CALIFORNIA (FORMERLY NEVADA AND CALIFORNIA RAILWAY COMPANY).

Case No. 196.

(Consolidated with Case 200.)

Decided April 4, 1916.

Respondent applies for a rehearing on the grounds that it did not have sufficient opportunity to present evidence, also that the Commission's allowance for transportation of men and materials during construction is unjust to the company in that it deprives it of property without due process of law.

Held. That applicant was given opportunity to present whatever evidence it desired, also to file briefs; that the subject of transportation during construction was given complete and thorough consideration; accordingly there are no grounds upon which a rehearing could be granted. Application denied.

REPORT OF THE COMMISSION.

OPINION ON PETITION FOR REHEARING.

This is an application for a rehearing of this case, which was heard by the Commission on January 31st, February 2d, March 2d, and August 7, 1914, and decided on December 8, 1915 (Decision No. 2961). A brief review of its history is contained in the decision referred to. The petitioner now prays:

First—That this proceeding be reopened, and that applicants be permitted to submit testimony with respect to any of the issues involved in the valuation of this property.

Second—That the hearing contemplated by section 70 of said act be continued and completed.

Third—That pending such continuation and completion of said hearing said opinion and findings in Decision No. 2961 be either set aside or suspended.

Fourth—That said Case No. 200, which involves the valuation of the El Centro-Sceley branch, be continued indefinitely, not to be set until the final determination by this Commission of the issues arising in Case No. 196.

Six principal reasons are given by the petitioner why a rehearing should be granted.

Petitioner first refers to sections 47 and 70 of the California Public Utilities Act, and states that the effect of the Commission's decision, if it remains in force, is such as to have prevented petitioner from offering testimony concerning any of the issues involved in this proceeding, and that this Commission has made its decision without affording the petitioner the hearing contemplated by section 70 of the Public Utilities Act. Petitioner states that in this case the hearing as contemplated by the Public Utilities Act was begun, and some evidence introduced on behalf of the Commission, consisting of reports and oral testimony from its engineering department; that during the course of the introduction of evidence questions arose as to what should be allowed for transportation of men and materials, and also as to what theory of depreciation, if any, and if so, what percentages of depreciation, should be used by the Commission; that thereupon the further trial of this case was suspended and briefs were filed and arguments made on behalf of the petitioner respecting the two questions referred to. Petitioner believes that the records will show that when the Commission had determined what rules should apply with respect to the two questions of transportation and depreciation, the hearing would then proceed, and the applicant would have an opportunity to introduce further testimony, not only on the two matters referred to, but also on all other questions entering into the determination of original cost, cost of reproduction new, or cost of reproduction less depreciation.

We have gone carefully through the entire record in this case and find that the contention of the petitioner, as to its not having been granted full opportunity to offer evidence, is not founded on fact. A study of the transcript of the four hearings shows clearly that the case was complete when the decision was rendered. The testimony shows conclusively that at the submission of the case on August 7, 1914, there were only two matters upon which it was desired to offer further argument to the Commission, namely, the question of transportation charges and that of depreciation.

Commissioner Eshleman, before whom the case was originally heard, gave the petitioner, and also the Western Pacific Railway Company and The Atchison, Topeka and Santa Fe Railway Company, who had come into the case as *amici curiæ*, thirty days in which to file briefs on the two questions referred to. Such briefs were filed by the petitioner and by The Atchison, Topeka and Santa Fe Railway Company. After the filing of these briefs the case was ready for decision as soon as the Commission had determined upon the disposition of the two items referred to. This disposition was made by Commissioner Eshleman and later concurred in by the entire Commission.

In this respect, as in all others, this case was handled exactly like other similar valuation cases decided by this Commission, and there appears to be no reason why a rehearing should be granted on the claim that petitioner has not had an opportunity to introduce whatever evidence it desired. On the contrary, the Commission is of the opinion that the procedure contemplated by the law was strictly followed and that petitioner has had full opportunity to present its case.

A rehearing is asked for the second reason that the findings of the Commission with reference to the item of transportation, if used in the future, either for the purpose of rate making or for the purpose of the acquisition of the line under consideration by the public, will result in depriving petitioner of its property without due process of law and denying it the equal protection of the law.

As far as the findings of fact with reference to the question of transportation are concerned, a reference to the Commission's decision will show how exhaustively and carefully the subject was considered. The Commission, after reconsideration, finds no reason why these findings should be modified in any particular. When it is averred that the Commission's decision, if permitted to stand, will deprive applicant of its property without due process of law, we believe that applicant labors under an entire misapprehension. The Commission in this and in all similar cases has held that in valuation proceedings findings of fact on various elements bearing on the value of the property only shall be made and that no decision will be reached on the ultimate question of

the value of the property, irrespective of the purpose for which the value is ascertained. Specific mention of this limitation is made in Decision No. 2961 referred to. It is there stated that to the future will be left the use of the findings in any proceeding in which they may become relevant.

As a third reason why a rehearing should be granted petitioner asserts that by the reduction of unit prices in the estimates of cost of reproduction new and cost of reproduction less depreciation, petitioner has further been deprived of the benefit of any allowance for transportation, thus indirectly nullifying the allowance of 7 mills per ton mile and 1 cent per passenger mile ostensibly made by the Commission for the transportation of men and materials.

Applicant's contention is erroneous, and an inspection of the decision and of the engineering department's report shows that the question of transportation has been handled in the manner explained in the decision.

As a fourth reason petitioner objects to the Commission's theory on land values as explained in the decision. It would seem that the Commission's position in this matter was made sufficiently clear in the decision in this case hereinbefore referred to, and we shall quote from that decision:

"We have stated in the first pages of this opinion that no findings will be made on the ultimate or fair value of this property for any particular purpose and that certain definite elements of value only are to be ascertained. Keeping this statement in mind, we are of the opinion that our purpose is accomplished if all the material facts entering into this valuation proceeding are clearly set forth. If this valuation should become material in a rate case, for instance, or in a securities case, or in any other proceeding, the Commission will have before it most of the data from which it can form an intelligent opinion of the "fair value" for the particular purpose at issue. The Commission will be in a position to accept or reject the "multiple" or any theory as it may see fit. It is sufficient to state here that in the reproduction cost of this property, as it will be found by us, the values placed on land do not include a right of way multiple, and no allowance for interest or other arbitrary allowances, as explained above."

We have nothing to add to this statement and are of the opinion that a rehearing would not change the findings.

As its fifth and sixth reasons for asking for a rehearing the petitioner puts before the Commission its statement that the bases used to arrive at the cost of reproduction new are largely erroneous, and again avers that no opportunity was granted to present evidence with respect to said bases, and to object to and offer testimony with respect to the methods and unit prices adopted by the Commission's engineering department.

The petitioner's contention is not borne out by the transcript in this case, which shows that on the day of submission, August 7, 1914, there remained for consideration by the Commission only the questions of transportation and depreciation, on which further oral argument was not desired by the petitioner, and briefs were submitted later.

It is the Commission's opinion that the petition for a rehearing should be denied.

ORDER.

Applicant in the above entitled proceeding having filed with the Commission a petition asking for a rehearing, and careful consideration having been given said petition, and no just ground being given why a rehearing should be held,

It is hereby ordered that said petition be and the same is hereby denied.

Dated at San Francisco, California, this 4th day of April, 1916.

DECISION No. 3230.

IN THE MATTER OF THE APPLICATION OF SANTA MARIA GAS AND POWER COMPANY FOR AN ORDER PRELIMINARY TO THE ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY ALLOWING SAID COMPANY TO EXERCISE RIGHTS AND PRIVILEGES UNDER A FRANCHISE TO BE SECURED.

Application No. 1485.

MIDLAND COUNTIES PUBLIC SERVICE CORPORATION

vs.

SANTA MARIA GAS AND POWER COMPANY.

Case No. 747.

Decided April 4, 1916.

The combined actions as above entitled bring under consideration the proposed entrance of the Santa Maria Company into the city of San Luis Obispo for the purposes of serving natural gas to the inhabitants thereof. Midland corporation, at present serving artificial gas in the city named, opposes the entrance of the Santa Maria company and petitions the Commission to either compel the Santa Maria company to sell natural gas to it for distribution or to permit the Midland corporation to transport natural gas through its pipe line from the oil fields to the distributing system in the city of San Luis Obispo.

Held, In accordance with its announced policy the Commission reiterates its intention to protect utilities from competition in their particular fields, provided that such utilities have been, and are at the time, rendering efficient service at reasonable rates. However, it is not the intention of the Commission to protect a utility from competition irrespective of the service which it renders, merely because it has pioneered in a particular field. As in the present case, the service of the Midland corporation has been exceptionally poor, evoking numerous complaints from its patrons, few of which have ever been satisfactorily adjusted. These conditions have been in effect for a considerable period of time, and accordingly no just reason can be advanced why a second utility should not be permitted to enter this field.

Santa Maria company granted a certificate of public convenience and necessity authorizing the exercise of rights and privileges granted to it under a franchise secured from the city of San Luis Obispo; provided, that the natural gas served shall be of the same quality as that at present served in other territory, also that the rates therefor shall not exceed the rates in effect in the city of Santa Maria; and further provided, that Santa Maria company shall never claim a value for such franchise other than the actual cost thereof.

Geo. H. Whipple and *Allen L. Chickering* of Chickering & Gregory and *C. P. Kaetzel*, for Santa Maria Gas and Power Company.

W. A. Sutherland, of Short & Sutherland, and *Paul M. Gregg*, for Midland Counties Public Service Corporation.

REPORT OF THE COMMISSION.

DEVLIN, Commissioner.

On January 6, 1915, Midland Counties Public Service Corporation, hereinafter designated Midland corporation, filed its complaint herein against the Santa Maria Gas and Power Company, hereinafter designated Santa Maria company, and thereafter, to wit, on March 9, 1915, filed its amended complaint in the same matter. The defendant, on February 3, 1915, filed its answer to complainant's original complaint, and on April 6, 1915, filed its answer to complainant's amended complaint.

The amended complaint alleges in effect,

First—That complainant is engaged in the business of manufacturing artificial gas and in supplying such commodity for domestic and other purposes to the city of San Luis Obispo and to the inhabitants thereof and to certain inhabitants of the territory immediately adjacent to the suburbs of said city of San Luis Obispo, under proper legal authority;

Second—That the defendant is, and for a long time prior to the filing of said amended complaint has been, engaged in the business of selling and furnishing natural gas for domestic and manufacturing purposes in the counties of San Luis Obispo and Santa Barbara;

Third—That defendant is engaged in extending its main pipe line for the transmission of natural gas to the territory immediately adjoining the city of San Luis Obispo for the purpose of supplying natural gas within the territory served by complainant with artificial gas;

Fourth—That the said city of San Luis Obispo and said adjacent territory served by complainant with artificial gas is not served with either natural or artificial gas for any purpose by any other public utility of like character, and that said territory is now fully covered by the plant and system of complainant;

Fifth—That defendant intends to proceed at once to construct mains and pipe lines in the city of San Luis Obispo and in the territory adjacent to said city served by complainant, without first procuring

from the Railroad Commission a certificate of public convenience and necessity;

Sixth—That complainant desires and proposes to supply natural gas to its consumers, and has requested defendant to fix a rate at which defendant will supply natural gas to complainant at the city limits of said city of San Luis Obispo, but that defendant has failed, neglected and refused, and does fail, neglect and refuse to indicate to complainant any rate at which it will sell gas for the purposes aforesaid to complainant;

Seventh—That unless defendant furnishes natural gas to complainant at or near the city limits of the city of San Luis Obispo, which gas in turn would be supplied by complainant to its consumers in said city of San Luis Obispo, it will be necessary for complainant to make use of defendant's high pressure transmission lines for the purpose of conducting complainant's natural gas to the city of San Luis Obispo, or for complainant to itself construct a high pressure trunk line from the same source of supply to the said city of San Luis Obispo; and that such construction will involve great and unnecessary cost and expense to complainant; and that public convenience and necessity would be served by the use by complainant of the lines of defendant for the purposes mentioned.

Complainant asks that the Railroad Commission make an order requiring either, first, that the Santa Maria company furnish complainant with natural gas at the city limits of the city of San Luis Obispo, or, second, that Santa Maria company carry complainant's natural gas from the source of supply to the city of San Luis Obispo.

On January 8, 1915, the Santa Maria company made application, under the provisions of section 50 (c) of the Public Utilities Act, for a preliminary certificate that public convenience and necessity require the exercise by it of certain rights and privileges under a franchise to be secured for the distribution of natural gas to the city of San Luis Obispo and its inhabitants.

The answer of the Santa Maria company to complainant's amended complaint denies all the material allegations of the amended complaint, and alleges substantially the same matters as does the petition in Application No. 1485. By its said answer, defendant questions the jurisdiction of the Commission and asks for the dismissal of said complaint.

On April 29, 1915, Midland corporation filed an answer to and protested against the granting of the said application of the Santa Maria company, which said answer and protest admitted that the city of San Luis Obispo is within the territory rightfully entitled to enjoy the use of natural gas; and that said city is not now served with natural

gas; but alleged that for more than two years prior to the filing of the application of the Santa Maria company the Midland corporation had been negotiating in good faith with the Santa Maria company to the end that said city of San Luis Obispo and the inhabitants thereof should be served with natural gas by either the applicant or protestant; alleging further that negotiations were initiated by protestant and persistently carried on by protestant until December, 1914, during which month it became apparent to protestant that it would be impossible to reach the end sought by agreement with applicant.

The Midland corporation in its answer and protest recites the filing of its complaint in Case No. 747, the case hereinbefore referred to, and further alleges that its present plant for the manufacture and distribution of artificial gas at San Luis Obispo was acquired by it during the month of March, 1912, and that its plant and system at the time of its acquisition was fairly adequate for the purpose of supplying artificial gas to the said city and its inhabitants. Protestant further alleges that it has been its desire and intention ever since the acquisition of its said plant to furnish natural gas to said city of San Luis Obispo and to adapt its plant to such use as far as possible; and alleges that in the month of November, 1912, it entered into negotiations with the Santa Maria company, reciting somewhat circumstantially details of such negotiations; and alleges that without any fault on its part said negotiations have failed. Protestant further alleges that if there is any reason for complaint on the part of the inhabitants of the city of San Luis Obispo concerning the adequacy of its artificial gas served in said city, as set forth in Santa Maria company's application, it is due solely and only to the delay incident to such negotiations and to the failure of the parties thereto to reach an agreement. Protestant denies that the distribution of natural gas is competitive with the distribution of electricity, and alleges that its plant and system now in use in San Luis Obispo can be used, and protestant intends to use the same, in the distribution of natural gas in said city, and that when so used said plant will adequately supply said city with natural gas; that it has invested in said plant and system a sum in excess of \$100,000.00 and that if applicant is permitted to exercise in said city said franchise to distribute natural gas therein, that protestant will be forced to abandon its plant and system, and that the exercise of said franchise by applicant will result in irreparable injury to protestant and to the consumers of natural gas of said city of San Luis Obispo.

The first hearing on these matters was held at San Luis Obispo on April 29 and 30, 1915, at which time it was stipulated that Application No. 1485 and Case No. 747 be consolidated, and thereafter adjourned hearings were held at San Francisco covering several days. After the

introduction of all the evidence, briefs were filed by the respective parties, the last brief being filed November 5, 1915.

The evidence introduced by the parties embraced an unusual amount of detail, including valuations, estimates, maps and exhibits of various kinds, all of which exhibits have been carefully checked by the Commission's engineering department, and thoroughly considered.

During the hearings and in its brief Santa Maria company devoted itself largely to the point raised by its answer that the Commission has no jurisdiction of the complaint in Case No. 747, claiming that it has not at any time and does not now sell natural gas to any city, town, village, private corporation or individual in this State for the purpose of resale, but only sells such gas to consumers of the same. That the Santa Maria company has not ever engaged in the selling of gas to any person, firm or corporation for the purpose of resale, was, in my opinion, thoroughly established. At the hearing the following question was propounded to Mr. Easton, secretary and manager of the Santa Maria company:

“COMMISSIONER DEVLIN: Has the company at any time since your connection with it sold gas to any person, firm or individual, or anyone for the purpose of resale?”

MR. EASTON: It has not.”

And later:

“COMMISSIONER DEVLIN: Are you going to produce anyone who has been familiar with the methods of the company from its organization, Mr. Whipple, or will that be disputed? Do you know whether or not they have ever been engaged in that business?”

MR. SUTHERLAND: We are not making that contention that they have ever been engaged except as Mr. Easton says, and these negotiations were carried on looking to that.”

The negotiations referred to by Mr. Sutherland were the negotiations for the purchase by the Santa Maria company of the Midland corporation, hereinafter referred to.

In my opinion it is extremely doubtful if there has been such a dedication of the facilities, commodity or service of the Santa Maria company to any use which contemplates the resale by a competitor. It appears to me, however, that the facts herein presented and hereinafter discussed are such that entitle Santa Maria company to a certificate of public convenience and necessity, and for that reason it is unnecessary to pass upon the question of the extent of its dedication of its facilities, commodity and service.

Inasmuch, however, as counsel for Midland corporation alleged that the case of *Tulare County Power Company vs. San Joaquin Light and Power Corporation*, No. 781, Decision 2260, of this Commission, presents the same question as is raised by Santa Maria company concerning the dedication of its facilities, it might be said that there is a

marked distinction between these two cases. In the Tulare case the question involved was whether or not the San Joaquin company, by reason of the failure of the Tulare company to pay for service under a contract previously entered into, could discontinue service. There was no question raised either in the pleadings or at the hearing as to the jurisdiction of the Commission on the grounds alleged by Santa Maria company. On the contrary, the San Joaquin company, in paragraph 4 of its answer, after a recital of the default on the part of the Tulare company, alleges:

“upon payment of which sum defendant will voluntarily resume service of electric energy to the complainant under the terms of said contract.”

For the same reasons that make it unnecessary to pass finally upon the question of the dedication of the facilities, commodity and service of the Santa Maria company for the sale of its commodity for the purpose of resale, I think it unnecessary to pass upon the objection alleged by the Santa Maria company that its character of business and method of conducting same is such as would forbid a finding that it has held itself out to furnish distribution facilities for the conveying of natural gas as a public service as distinguished from its business of conveying natural gas for delivery to its own consumers.

On January 4, 1915, two days before the filing of the Midland corporation's complaint herein, Santa Maria company applied to the city of San Luis Obispo for a franchise authorizing it to supply natural gas to said city and its inhabitants, and thereafter, on April 19, 1915, the city trustees finally passed an ordinance granting such franchise to Santa Maria company; the application thereafter became and now is one for the issuance of a certificate of public convenience and necessity after franchise obtained.

The questions raised by the complaint of Midland corporation, asking an order of this Commission directing Santa Maria company to deliver the gas at a rate to be fixed by this Commission, or that complainant be permitted to use its high-pressure trunk lines for the purpose of transmitting natural gas, owned by the complainant, to the city of San Luis Obispo upon a reasonable compensation to be fixed by the Commission, include not only the legal issues to which attention has hereinbefore been directed, but also include questions of the reasonableness and propriety of such orders under existing conditions. In the latter respect they are very closely related to the questions presented in the application of Santa Maria company for certificate of public convenience and necessity.

This Commission has heretofore, notably in the cases of *Pacific Gas and Electric Company vs. Great Western Power Company* (Opinions

and Orders of the Railroad Commission, Vol. 1, page 203), and *In the matter of the Application of Oro Electric Corporation, etc.* (Opinions and Orders of the Railroad Commission, Vol. 2, page 748), emphatically declared in favor of the policy of affording protection to utilities in the territory they are serving when such utilities are rendering efficient service at proper rates and are fulfilling adequately the duties which they owe to the public. In the decision of the Great Western Power case we find this language:

"It is certainly true that where the territory is served by a utility which has pioneered in the field, and is rendering efficient and cheap service and is fulfilling adequately the duty which, as a public utility, it owes to the public, and the territory is so generally served that it may be said to have reached the point of saturation as regards the particular commodity in which such utility deals, then certainly the design of the law is that the utility shall be protected within such field; but when any one of these conditions is lacking, the public convenience may often be served by allowing competition to come in."

And again, in the same decision, the Commission says:

"If, however, a territory is completely served and the utility has, to the best of its ability, given fair treatment to its patrons, as already intimated, this Commission will be slow to permit a competitor to come into its territory."

In the Oro Electric case the Commission states the same rule in the following language:

"* * * a wise public policy demands that utilities which are doing their full duty to the public shall be treated with fairness, justice and liberality, and they shall receive such protection to their investment as they may deserve * * *."

It was not, however, the purpose of the Commission in the cases last mentioned, to declare or imply that the first utility in the field would be protected against competition simply because it pioneered in that particular territory, regardless of the performance of its duties and obligations to the public; on the contrary, in the same decisions the Commission with emphasis served notice on utilities that they assumed the risk of competition under authority of this Commission, by neglecting to perform their full duties as such utilities.

The following language, the meaning of which is unmistakable, was used in the Great Western decision:

"* * * to all new utilities we shall likewise hold out the incentive that on the discovery by them of territory which is not accorded reasonable service and just rates, they may have the privilege of entering therein if they are willing to accord fair treatment to such territory."

In the Oro decision we find this language:

“* * * if another utility can, by reason of superior natural advantages or patented processes or other means, give to the public a service as good as the existing utility, at rates materially less, the interest of the public must be deemed paramount and the new utility must be given an opportunity to serve the public.”

The policy announced in these two decisions, which might well be called the leading cases decided by this Commission touching the questions involved, was, in the Oro case, declared to be the principles which would be followed in future cases in as far as they are applicable to the facts of those cases.

Far from departing from or modifying the policies, rules or principles declared in the two cases referred to, I think these should be, and by this opinion and the order hereinafter recommended are, reaffirmed.

Another very important factor bearing upon the determination of whether or not an existing utility has performed its full duty within the rules above quoted, is the period during which the existing utility has been remiss in its duties and the time of its endeavors to make amends to the public by adequately performing its duties.

The attitude of this Commission in this respect can not be better stated than by again quoting from the two decisions above referred to. In the Great Western decision the following announcement was made:

“Rather do we announce the rule that only until the time of threatened competition shall the existing utility be allowed to put itself in such a position with reference to its patrons, that this Commission may find that such patrons are adequately served at reasonable rates.”

And on the same point the Oro decision speaks as follows:

“On the other hand, the California Commission, unless particular circumstances call for a different method of handling the problem, looks to the existing utility as of the day when the newcomer knocks at the door. If the existing utility is at that time found not to be doing its duty to the public, the newcomer is permitted to enter.”

And again the Oro decision declares:

“Furthermore, the Commission held in that case that it would judge the two utilities as of the day when the new utility filed its application with this Commission, so that a utility desiring to be protected in the way of competition must do its full duty to the public before and not after the newcomer knocks at the door.”

This brings us to the application of the rules and principles previously declared by this Commission to the particular facts involved in the application and case before us, in this regard.

Some thirty or forty witnesses, residents of the city of San Luis Obispo, were called by Santa Maria company and all testified in effect that the gas service of the Midland corporation was most unsatisfactory and had been so since 1912. These witnesses comprised consumers of the gas furnished by the Midland corporation for domestic and commercial purposes. Not a single witness was produced by the Midland corporation to testify to satisfactory or adequate service. Counsel for the Midland corporation in effect admitted at the hearing that the service had been poor, and again in its brief we find this language:

“It can not be denied that for some months prior to July, 1914, the artificial gas service of the Midland Counties Public Service Corporation in the city of San Luis Obispo had been allowed to deteriorate.”

Midland corporation did, however, offer evidence that during the month of July, 1914, Mr. E. B. Walthal, one of its assistant general managers, while in San Luis Obispo on other business, discovered that complaints were being made to the local office concerning the gas service rendered, and that counter to instructions the local manager was making no report whatever to the general office of the company; that an investigation was at once instituted and it was found that the local manager had not only failed to report the complaints, but had apparently made no effort to maintain any standard of efficiency; that the local manager was thereupon discharged and a capable gas expert was sent to San Luis Obispo to correct the trouble.

Beginning in the month of July, 1914, and continuing until October of the same year, Midland corporation did some work on its San Luis Obispo system. The condition of the Midland plant at San Luis Obispo in July, 1914, was undoubtedly rapidly approaching that of intolerable, and had called forth very general and very emphatic protest from the consumers. While the company did make some effort to improve conditions, it might well be said that the improvement was comparatively small, considering the magnitude of the work necessary to give proper service.

There is no question whatever in my mind that the evidence clearly establishes the fact that the service supplied by the Midland corporation to its consumers in San Luis Obispo was from the time of taking over the property in 1912, up to July, 1914, such as to merit the vigorous protest it received from its consumers, and that the improvement brought about by the work performed between July and October, 1914, fell far short of putting the plant in such a condition as would warrant the statement that it was performing its full duty to its consumers.

The Midland corporation, while practically admitting its failure to give such service as is imposed upon it by law, would avoid the respon-

sibility for its default in this regard by reason of negotiations which had been entered into between the Santa Maria company and the Midland corporation looking to the purchase by the former company of the gas system of Midland corporation at San Luis Obispo City.

The local gas manufacturing plant and distribution system in San Luis Obispo, formerly owned by the San Luis Gas and Electric Company, appears from the records of the Commission to have been acquired in March, 1912, by the Coalinga Water and Electric Company, which in turn was reorganized as the Midland Counties Public Service Corporation in September, 1913, under the same ownership. It appears from the evidence that the predecessor of the Midland corporation had, in 1912, instituted negotiations with the Santa Maria company, acting through Mr. Easton, for the sale of gas by the latter company to the Midland's predecessor, to be resold by the latter in San Luis Obispo. These negotiations, however, never got beyond the point of drafting a contract which was never executed, and no gas was ever sold thereunder. Thereafter, and between 1912 and up to a short time before the filing of the application of the Santa Maria company herein, other negotiations were carried on between the two companies, which are parties hereto, the propositions involved in such negotiations being as follows:

(a) That the Midland corporation purchase gas at wholesale from Santa Maria company for distribution in San Luis Obispo.

(b) Negotiations looking to the purchase of all of the stock of the Santa Maria company;

(c) Proposition of leasing to the Santa Maria company the gas plant and system in San Luis Obispo;

(d) The proposition of selling to the Santa Maria company the gas plant and system in San Luis Obispo.

A great deal of testimony was introduced by both parties bearing upon these various negotiations, and unquestionably the position of the Midland corporation is, in these cases, that the Santa Maria company, through its representatives in these various negotiations, had led the Midland corporation and its owners to believe that terms would be agreed upon resulting in a lease or sale of the Midland's San Luis Obispo plant to the Santa Maria company. Considerable evidence was also introduced as to the price at which the Midland corporation offered to sell and the price which Santa Maria company was willing to pay.

What makes these negotiations pertinent in these cases is that the Midland corporation, in effect, offers as an excuse for its failure to perform its duty to its patrons at San Luis Obispo the fact that it believed that a sale or lease would be consummated, and the strong insinuation that the Santa Maria company was delaying the negotiations and really and in fact had no intention of consummating same;

and that said negotiations were carried on by said Santa Maria company with the apparent purpose of endeavoring to agree upon the price of the properties of the Midland corporation, solely to enable Santa Maria company to complete its trunk line from the oil fields to the town limits of San Luis Obispo.

I deem it to be of no special consequence to this Commission in determining the questions involved herein as to whether or not the price offered, even tentatively, by the Santa Maria company for the Midland properties at San Luis Obispo, was sufficient or otherwise. Neither do I consider it necessary to review at length the various negotiations covering a period from 1912 to the end of 1914. To do so would probably be to repeat the history of many similar transactions where keen business men are dealing at arms-length with each other, each side endeavoring to drive as good a bargain as possible, and it might fairly be said that the history of the negotiations in this particular matter were not inconsistent with the rules of business governing such transactions. That the Santa Maria company was busily engaged in extending its trunk line from the oil fields to San Luis Obispo was apparent to the Midland corporation; that it was the purpose and policy of the Santa Maria company to endeavor to market its gas at San Luis Obispo must have been equally apparent; that the Midland corporation would deduce from these circumstances the conclusion that in the event of a failure of the negotiations for lease or sale that the Santa Maria company would endeavor to market its product in San Luis Obispo, independently of the Midland corporation, it seems to me to be obvious. From this follows the conclusion that when the Midland corporation neglected to perform its duty to the community of San Luis Obispo city, which it in effect admits it did, it did so charged with a notice of the policy of this Commission and with a knowledge that the demands of the public for a proper and adequate service would be the all-important factor in a contest between the two companies, which the Midland corporation must have felt would ultimately come, in the event of failure of such negotiations. When, under these conditions, the Midland corporation did default in its duties to the community, it did so at its hazard and can not now be properly heard to complain. This Commission would, I think, be unwarranted in accepting as a sufficient excuse that offered by the Midland corporation, namely, "we expected to arrive at terms that were satisfactory to us. We risked our right to prevent competition by failing to perform our full duty to the public rather than make such expenditures as were proper and necessary to fulfill our obligations." There may, in some instances, be sufficient excuse for a utility's default in the performance of its full duty, but it seems that

in the present instance sufficient excuse for a manifest default does not exist. To announce the rule contended for by the Midland corporation would, in my opinion, be subordinating the rights of the public to proper and adequate service to what the serving utility conceives to be its proper basis of terms in a contemplated sale. In my opinion, the rights of the public to demand and receive from the utility adequate service are superior and should be so recognized by a utility in the conduct of its negotiations.

Santa Maria Gas and Power Company was organized on January 7, 1907, by Mr. James F. Goodwin, manager of the Pinal Dome Oil Company and the Brookshire Oil Company, Mr. Paul O. Tietzen, Mr. M. Thornburg, Mr. Thomas B. Adam and Mr. John E. Walker. During the year previous, Mr. James F. Goodwin had secured, on June 4th, a franchise from the county of Santa Barbara, and on October 1st, a franchise from the city of Santa Maria permitting the construction and operation of pipe lines for conveying oil and gas from the Santa Maria oil fields to Santa Maria and certain other districts in Santa Barbara County. The object in organizing the Santa Maria Gas and Power Company was to take over the franchise theretofore obtained by Mr. James F. Goodwin, and also to acquire a contract which Mr. Goodwin was to enter into with the Brookshire Oil Company, of which he was the manager.

On February 16, 1907, Mr. James F. Goodwin entered into a contract with the Brookshire Oil Company for all the natural gas produced by that company in excess of that necessary for its own operation for a period of ten (10) years at a flat price of fifty (50) dollars per month. This contract was assigned by Mr. Goodwin to the Santa Maria Gas and Power Company, and in November, 1912, was modified by a second contract in which the oil company reserved the right to extract from the gas, before delivery to the Santa Maria company, all condensable hydrocarbons. Delivery of gas is to be made by the oil company at not less than 100 pounds pressure, and the Santa Maria company agrees to take not less than 2,000,000 cubic feet per month for a period of ten years from and after February 15, 1917, at a price of five cents per 1,000 cubic feet based on an eight-ounce pressure. The Santa Maria company is given an option on all the gas produced by the oil company, but reserves the right to sell to other persons any excess gas not required by the gas company.

During March, 1907, the transmission pipe line of the Santa Maria company was completed from the properties of the Brookshire Oil Company to the city of Santa Maria, and gas was turned into the distribution mains in Santa Maria on April 3, 1907. During the first month's operation thirty consumers were served with natural gas.

In April, 1909, a six-inch pipe line was constructed from the properties of the Pinal Dome Oil Company to the compressing station of the Santa Maria company, and a contract entered into for the purchase by the latter from the former of natural gas produced by the oil company. On November 22, 1912, a new contract was entered into between the Santa Maria company and the Pinal Dome Oil Company for the purchase and sale of all natural gas produced by the oil company in excess of that required for its own use, for a period of twenty years from September 1, 1910. Provision is made in the contract that the Santa Maria company shall take, provided that the oil company can make deliveries, a minimum of 2,000,000 cubic feet per month from and after September 1, 1915, and the Santa Maria company is given prior right to all of the gas produced by the oil company. The oil company reserves the right to extract all liquefiable hydrocarbons from the gas before delivery to the Santa Maria company, and the latter agrees to pay to the oil company for the gas purchased, \$100.00 per month to September 1, 1915, and thereafter at the rate of 5 cents per 1,000 cubic feet based on an eight-ounce pressure.

On July 14, 1911, Mr. R. E. Easton entered into a contract with the Union Oil Company of California for the purchase by Easton from the oil company of all of the natural gas which Easton required or may require for distribution and sale in San Luis Obispo and Santa Barbara counties. The minimum amount of gas which Mr. Easton was to take under the contract was 2,000,000 cubic feet per month, exclusive of any gas delivered by Easton to the oil company. The oil company reserved the right to such gas as it required for its own operations and also the right to extract, before delivery, any condensable hydrocarbons which the gas may contain as it comes from the wells. This contract was later assigned to the Santa Maria Gas and Power Company, and during September, 1911, the Santa Maria company extended its field lines to the properties of the oil company for receiving the gas covered by the contract.

Having secured an adequate supply of natural gas, the Santa Maria company, during the summer of 1911, extended a 4-inch high-pressure gas line to the town of Betteravia, where the Pinal Dome Oil Company's refinery is located, and from Betteravia a 2½-inch line was extended six and one-half miles to Guadalupe.

On August 9, 1911, the Santa Maria company secured its San Luis Obispo County franchise.

In December, 1911, construction work was commenced on the 4-inch high-pressure line from Santa Maria across the Santa Maria River into San Luis Obispo County. The river crossing at this point, laid at a depth of sixteen feet in the river sands, deserves special mention due

to the fact that it has withstood, since its installation, two of the most severe floods and high water conditions in the history of Santa Barbara and San Luis Obispo counties. The last of these high water periods, scarcely a month past, was one of the most severe tests to which any structure could be subjected under operating conditions. The fact that the river crossing successfully withstood the extreme high water referred to, speaks well for the stability of the construction in general.

On August 7, 1912, a franchise was secured by the Santa Maria company for a gas distribution system in the city of Arroyo Grande, and in September of that year the 4-inch transmission line was completed from Santa Maria to that point, and natural gas was being supplied to the inhabitants of Arroyo Grande. Along this line gas is also supplied in Nipomo and Los Berros and to the Union Oil Company's oil pumping plants at Santa Maria, Riverbank and Summit. Other large users of gas from this line were the Domestic Water Company and the Midland Counties Public Service Corporation at Santa Maria.

In September, 1914, the Santa Maria company proceeded with the construction of its high-pressure line from Arroyo Grande to the city of San Luis Obispo, a distance of eleven and one-half miles. This line was completed to a point approximately one and three-quarters miles from the city limits of the city of San Luis Obispo during the latter part of 1914, and for this latter distance the pipe was distributed preparatory to laying. This line consists of about 9,830 feet of 4-inch pipe and about 52,834 feet of 4½-inch pipe.

Defendant presented the valuation of its properties by Mr. F. C. Millard in which both operative and nonoperative physical properties are valued at \$299,280.28. According to the annual report of defendant to the Commission, the book cost or the actual investment in this same property is \$219,580.50. A comparison of these two reports is given in the following tabulation:

Comparison of Valuation and Book Cost—Santa Maria Gas and Power Company.

	F. C. Millard's valuation February 16, 1915	Company's book value December 31, 1911	Difference
Real estate.			
Nonoperative -----	\$12,700 00	\$13,740 00	\$4,580 00
Operative -----	5,620 00		
Buildings and fixtures -----	14,358 25	8,923 41	5,434 84
Plant, machinery and equipment -----	37,895 40	34,437 65	3,457 75
Meters.			
Consumers' meters -----	8,624 65	9,880 63	385 98
Station meters -----	870 00		
Pipe lines.			
Santa Maria low pressure town line -----	30,018 94	15,846 60	14,172 34
Low pressure town line, Nipomo -----	1,839 80	781 28	1,058 52
Low pressure town line, Guadalupe -----	4,912 32	746 13	4,166 19
Low pressure town line, Betteravia -----	1,840 68	102 53	1,738 15
Low pressure town line, Arroyo Grande -----	7,028 54	3,953 99	3,974 55
Service construction (services and regu- lators).			
Santa Maria -----	9,569 64	7,838 06	4,252 37
Arroyo Grande -----	1,699 01	1,887 36	
Nipomo -----	462 35	352 29	
Guadalupe -----	1,347 21	1,886 44	
Betteravia -----	567 63	781 16	
On high pressure lines -----	3,351 84		
High pressure lines.			
Final extension -----		5,224 20	29,388 86
Brookshire extension -----		259 01	
Betteravia—Guadalupe line -----		25,609 52	
Union Oil extension -----		2,157 54	
River line -----		9,291 43	
San Luis service construction -----	\$132,891 51	273 28	
Telephone line -----		20 36	
High pressure to Santa Maria -----		18,764 96	
San Luis No. 1 line -----		27,663 35	
San Luis No. 2 line -----		24,720 35	
Field collection system -----	10,481 35		
Automobiles, etc. -----	2,557 50		2,557 50
Material and supplies on hand -----	10,613 66	*4,439 06	6,204 60
Total tangible values -----	\$299,280 28	\$219,580 59	\$79,699 69
Intangible values -----		32,330 27	32,330 27
Grand total -----	\$299,280 28	\$251,910 86	\$47,369 42

NOTE.—*From balance sheet.

The difference between the two figures exclusive of intangible capital, which is an arbitrary value attached to an obsolete contract for which stock was issued to one of the directors of the company, is \$79,699.69, or 36.2 per cent in excess of the actual investment. Although the Commission is not at this time particularly interested in the valuation of defendant's property except in order to determine the ability of said defendant to supply natural gas to the consumers of San Luis Obispo at reasonable rates, I feel that defendant should be warned against the presentation of such erroneous reports. This valuation can not be accepted by the Commission.

The rates charged for natural gas in the territory served by the Santa Maria company are as follows:

Rates for Natural Gas—Santa Maria Gas and Power Company.

SCHEDULE No. 1.

Santa Maria and Orcutt Road domestic and small commercial consumers:

\$1.00 per 1,000 cubic feet. No discount.

Minimum monthly charge, \$1.00.

SCHEDULE No. 2.

Commercial and industrial consumers using between 20,000 and 35,000 cubic feet per month:

60 cents per 1,000 cubic feet. No discount.

Minimum monthly charge, \$12.00.

SCHEDULE No. 3.

General commercial and industrial consumers using in excess of 35,000 cubic feet per month:

50 cents per 1,000 cubic feet. No discount.

Minimum monthly charge, \$17.50.

SCHEDULE No. 4.

General schools and public libraries:

75 cents per 1,000 cubic feet. No discount.

Minimum monthly charge, 75 cents.

SCHEDULE No. 5.

Free service to churches and places of worship.

SCHEDULE No. 6.

Special boiler rate—Surplus gas only:

For monthly consumption up to 100,000 cubic feet, 20 cents per 1,000 cubic feet.

For monthly consumption from 100,000 to 250,000 cubic feet, 15 cents per 1,000 cubic feet.

For monthly consumption from 250,000 to 1,000,000 cubic feet, 12½ cents per 1,000 cubic feet.

For monthly consumption in excess of 1,000,000 cubic feet, 10 cents per 1,000 cubic feet.

Minimum monthly charge, \$40.00.

Service may be discontinued at option of gas company upon reasonable notice. Consumer assumes all responsibility for injury or damage to persons or property.

SCHEDULE No. 7.

General service Santa Barbara and San Luis Obispo counties, domestic and small consumers.

\$1.25 per 1,000 cubic feet. No discount.

Minimum monthly charge, \$1.25.

SCHEDULE No. 8.

General special incubator rates:

75 cents per 1,000 cubic feet. No discount.

Minimum monthly charge, 75 cents.

SCHEDULE No. 9.

Special rate Union Sugar Company, Betteravia; domestic and commercial consumers:

45 cents per 1,000 cubic feet. No discount.

No minimum charge.

SCHEDULE No. 10.

General gas engine service:

For monthly consumption up to 300,000 cubic feet, 50 cents per 1,000 cubic feet.

For monthly consumption in excess of 300,000 cubic feet, 30 cents per 1,000 cubic feet.

Minimum monthly charge, 50 cents.

Street lighting service is supplied at a rate of \$2.50 per month per light.

A special rate of 75 cents per 1,000 cubic feet made to meat shops and butchers for the rendering of lard and tallow where the consumption is not less than 10,000 cubic feet per month.

Rate for natural gas in Arroyo Grande, applicable to domestic and small commercial consumers.

Prior to August 1, 1915.

SANTA MARIA GAS AND POWER COMPANY.

\$1.35 per 1,000 cubic feet for the first 2,000 cubic feet per month.

\$1.00 per 1,000 cubic feet for all gas used in excess of 2,000 cubic feet per month.

Minimum monthly charge, \$1.35.

The present rates for artificial gas in effect in San Luis Obispo were fixed by city ordinance on June 27, 1914, and are as follows:

1. Artificial gas furnished for any purpose:

For the first three thousand (3,000) cubic feet consumed in one month, the rate shall be one and 25-100 (1.25) dollars for each one thousand (1,000) cubic feet consumed. For gas consumed in one month in excess of three thousand (3,000) cubic feet and not in excess of fourteen thousand (14,000) cubic feet, the rate shall be one and 15-100 (1.15) dollars for each one thousand cubic feet consumed. For gas consumed in one month in excess of fourteen thousand (14,000) cubic feet and not in excess of twenty-four thousand (24,000) cubic feet, the rate shall be one and 10-100 (1.10) dollars for each one thousand (1,000) cubic feet consumed. For gas consumed in one month in excess of twenty-four thousand (24,000) cubic feet, the rate shall be one (1) dollar for each one thousand (1,000) cubic feet consumed. The minimum rate for gas furnished during any month shall be one (1) dollar.

The above rates were filed by the Midland Counties Corporation as the effective rates in the city of San Luis Obispo from July 1, 1914.

In connection with the matter of rates, I quote the following from the report of our gas and electrical engineer:

"It should be understood that the utility of a gas is, as is the case with other fuels, directly proportional to its heating value. This heating value is expressed in terms of British thermal units (B. t. u.) per cubic foot of gas—a B. t. u. being that quantity of heat which is required to raise the temperature of one pound of water one degree Fahrenheit, and its mechanical equivalent is 778 ft.-lbs of energy. A consumer who buys 1,000 cubic feet of ordinary artificial gas received approximately 600,000 B. t. u. in heat, whereas if he buys 1,000 cubic feet of natural gas he receives somewhat in excess of 1,000,000 B. t. u., and although the quantity which passes through and is measured by his meter is the same in both cases, the efficiency of the natural gas is some 66⅔ per cent in excess of that of the artificial gas. In other words, in order to perform the same service the consumer will require 40 per cent less natural gas than artificial gas, and at the same rate per 1,000 cubic feet, his bill, if he uses natural gas, will amount only to about 60 per cent of what it would be if he had used artificial gas."

It would appear that the introduction of natural gas at the same rate in a territory theretofore supplied with artificial gas is in effect a reduction in rates. However, it appears from an analysis of defendant's revenue and expense and the careful computations of cost by our engineers, that the rates for natural gas in San Luis Obispo should not exceed the rate in effect in the city of Santa Maria for like service.

I submit the following form of order:

ORDER.

Midland Counties Public Service Corporation having filed its complaint against the Santa Maria Gas and Power Company, and the Santa Maria Gas and Power Company having filed its answer to the complaint, and Santa Maria Gas and Power Company having made application under the provisions in section 50 of the Public Utilities Act for a certificate that public convenience and necessity require the exercise by it of certain rights and privileges under a franchise to be secured for the distribution of natural gas in the city of San Luis Obispo, and Midland Counties corporation having filed an answer to and protest against the granting of the said application of the Santa Maria Gas and Power Company, and said proceedings having been consolidated by stipulation of the respective parties, and a public hearing having been held and the case and application having been submitted and now being ready for decision, and the Commission finding as a fact that public convenience and necessity require and will require the exercise by the said Santa Maria Gas and Power Company of the rights and privileges granted to it by Ordinance No. 43 (N.S.) of the city of San Luis Obispo, finally passed on the 19th day of April, 1915, and basing its order herein upon the foregoing finding of fact, and the findings of fact which are contained in the opinion which precedes this order,

It is hereby ordered that the complaint of the Midland Counties Public Service Corporation herein be and the same is hereby dismissed; and

It is further ordered and declared that public convenience and necessity require and will require the exercise by the Santa Maria Gas and Power Company of rights and privileges granted to it by Ordinance No. 43 (N.S.) of the city of San Luis Obispo, finally passed on the 19th day of April, 1915; provided, however, that the said Santa Maria Gas and Power Company shall first file with this Commission a stipulation to the following effect:

First—Declaring that Santa Maria Gas and Power Company, its successors and assigns, will never claim before the Railroad Commission or any court or other public body a value for said rights and privileges granted by said Ordinance No. 43 (N.S.) of said city of San Luis

Obispo in excess of the actual cost to Santa Maria Gas and Power Company to acquire the said rights and privileges;

Second—That the natural gas to be furnished by said Santa Maria Gas and Power Company to the said city of San Luis Obispo and the inhabitants thereof, shall be of the same quality as that distributed by the said company to its patrons and consumers in other territory supplied by it;

Third—That the rates to be charged by the said Santa Maria Gas and Power Company for natural gas distributed and sold by it to the city of San Luis Obispo and to the inhabitants thereof shall not exceed the rates in effect in the city of Santa Maria for like service, unless and until this Commission shall authorize a rate for such gas sold to the city of San Luis Obispo and the inhabitants thereof in excess of the rate in effect in the city of Santa Maria for like service.

And after the filing of such stipulation the Santa Maria Gas and Power Company shall receive from this Commission a supplemental order declaring that such stipulation, in form satisfactory to this Commission, has been filed as herein and hereby directed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, this 4th day of April, 1916.

DECISION No. 3231.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR PERMISSION TO ABANDON CALIFA STATION, IN MADERA COUNTY.

Application No. 2178.

Decided April 5, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Southern Pacific Company having, on April 3, 1916, made written request that this application be dismissed,

It is hereby ordered that the application in this proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 5th day of April, 1916.

DECISION No. 3232.

IN THE MATTER OF THE APPLICATION OF INGLEWOOD WATER COMPANY FOR AN ORDER AUTHORIZING IT TO CHANGE RATES, ISSUE BONDS AND PURCHASE WATER SYSTEM FROM HYDE PARK WATER COMPANY, AND OF LATTER COMPANY TO SELL SAID SYSTEM.

Application No. 1972.

Decided April 5, 1916.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas this Commission by Decision No. 3157, dated March 14, 1916, *in re* application No. 1972, authorized applicant herein to issue \$150,000.00 face value of 6 per cent 15-year first mortgage bonds, provided applicant filed with this Commission for approval a copy of its proposed mortgage or deed of trust securing the payment of an authorized issue of \$300,000.00 face value of 6 per cent 15-year first mortgage bonds; and

Whereas applicant has now filed with this Commission for approval a copy of its proposed mortgage or deed of trust, which has been marked "Exhibit J Amended" and attached to the application herein; and

Whereas said mortgage or deed of trust secures the payment of \$300,000.00 face value of 6 per cent 15-year first mortgage bonds due and payable February 1, 1931; and

Whereas said mortgage or deed of trust further provides that 150 bonds are to be of the par value of \$1,000.00 each and 300 bonds of the par value of \$500.00 each; that of the aforesaid bonds those numbered from 1 to 75, both inclusive, and those numbered from 151 to 300, both inclusive, aggregating \$150,000.00, shall be immediately certified by the trustee and delivered to the company to be used by said company in the purchase of the plant and system of the Hyde Park Water Company, and to refund certain obligations of the company authorized to be refunded by the Railroad Commission of the State of California; that the remainder of said bonds "are to be used for the purpose of making or acquiring additions and betterments to or for the company's property, from time to time, under the authority of the Railroad Commission of the State of California, and shall be certified and delivered, from time to time, by the trustee to the company upon the written orders of the company, signed by its president and secretary under its corporate seal, when each such order is accompanied by a certificate signed by the president or vice president of the company, showing the necessity for

making or acquiring the proposed betterments or additions, the cost of same and the amount of bonds to be issued for such purpose"; that the bonds shall pass by delivery unless registered as to principal in the owner's name on the books of the trustee, which books shall be open to the inspection of the bondholders; that on or after February 1, 1918, the company may redeem any or all of the bonds on giving thirty-five days' notice at 102½ per cent of the face value thereof; that on February 1, 1921, and annually thereafter, the company shall pay to the trustee for the purpose of creating a sinking fund an amount equal to 3 per cent of the face value of the bonds outstanding; that the trustee may and upon written request of the holders of 50 per cent in amount of the bonds outstanding, shall take possession of the mortgaged property in case default shall be made in the payment of any interest within three months after due or default shall be made in the payment of the principal of any bonds, or if default shall be made in the due observance or performance of any other covenant or condition required to be kept or performed by the company, and such default shall continue for a period of three months after written notice thereof to the company by the trustee or from the holders of 50 per cent or more in amount of the bonds at the time outstanding; that in case default shall be made in the payment of any interest on any bond secured by this mortgage or deed of trust, and such default shall continue for a period of six months, the trustee on the written request of the holders of 50 per cent in amount of the bonds outstanding shall by notice in writing delivered to the company declare the principal of all bonds then outstanding to be due and payable immediately; that the control of all foreclosure proceedings vests in the holders of 50 per cent in amount of the bonds outstanding; and good cause appearing,

It is hereby ordered that Inglewood Water Company be given authority and it is hereby given authority to execute a mortgage or deed of trust substantially in the same form and tenor as the mortgage or deed of trust attached to the application herein and marked "Exhibit J Amended."

Dated at San Francisco, California, this 5th day of April, 1916.

DECISION No. 3233.

IN THE MATTER OF THE APPLICATION OF SANTA MARIA GAS AND POWER COMPANY FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF RIGHTS AND PRIVILEGES UNDER A PERMIT HERETOFORE GRANTED TO SAID CORPORATION BY THE COUNCIL OF THE CITY OF SAN LUIS OBISPO AND UNDER A FRANCHISE HERETOFORE GRANTED TO IT BY THE COUNTY OF SAN LUIS OBISPO.

Application No. 1838.

Decided April 5, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The subject matter of this application having been entirely covered by the order of the Commission made on April 4, 1916, in Application No. 1485—"In the matter of the application of Santa Maria Gas and Power Company, a corporation, for an order preliminary to the issuance of a certificate of public convenience and necessity allowing said company to exercise rights and privileges under a franchise to be secured," and in Case No. 747—"Midland Counties Public Service Corporation, a corporation, versus Santa Maria Gas and Power Company, a corporation"—

It is hereby ordered that this application be and the same is hereby dismissed.

Dated at San Francisco, California, this 5th day of April, 1916.

Decisions Nos. 3234, 3235, 3236, 3237, grade crossings; not printed.

See end of volume.

DECISION No. 3238.

IN THE MATTER OF THE APPLICATION OF PETALUMA AND SANTA ROSA RAILWAY COMPANY FOR ORDER RELIEVING IT FROM COMPLIANCE WITH THE PROVISIONS OF CHAPTER 494 OF THE LAWS OF 1915.

Application No. 2104.

Decided April 5, 1916.

REPORT OF THE COMMISSION.

Petaluma and Santa Rosa Railway Company having filed its application asking that the Commission authorize said railway company to permit its engineers, firemen, motormen, conductors, brakemen and other trainmen and dispatchers to receive, deliver and transmit at any and all

receiving or forwarding telephone or telegraph instruments any order for the movement of its trains, and the Commission being of the opinion that said application is reasonable and should be granted.

It is hereby ordered that the application in this proceeding be and the same is hereby granted.

Dated at San Francisco, California, this 5th day of April, 1916.

DECISION No. 3239.

IN THE MATTER OF THE APPLICATION OF MCKINLEY BROS., INC.,
FOR PERMISSION TO LEASE ELECTRIC PLANT.

Application No. 2138.

Decided April 6, 1916.

Applicant, operating a small electric generating and distributing system in Lake County, is authorized to lease same for a period of five years to Sidney H. McKinley.

Darrington Christopher, for Applicant.

REPORT OF THE COMMISSION.

McKinley Bros., Inc., applies for authority to lease to Sidney H. McKinley applicant's electric plant serving energy to thirty-seven consumers in Middletown, Lake County. The plant was constructed in 1905 by the father of the stockholders in the present company, at an original cost for material and supplies of about \$3,000.00, the labor being supplied by himself and his sons. Practically no extensions have been built since.

Energy is generated at the water power plant of applicant which operates its flour mill. It is transmitted a distance of about two miles to Middletown, where energy is distributed to thirty-seven consumers for lighting purposes, two of whom use small quantities also for power purposes. The total length of the line is about three miles. It would be possible to increase the business to about fifty consumers, which would apparently be the limit of business which could be served by the present equipment and present water power if service for power purposes were not further increased.

Applicant reports revenues and operating expenses for 1914 and 1915 as follows:

	1914	1915
Operating revenues -----	\$1,037 44	\$1,182 65
Operating expenses -----	792 43*	430 71

*Accrued depreciation of \$350.00 is included.

Applicant's only indebtedness is a note for \$3,000.00 with interest at 6 per cent per annum, payment being secured by mortgage upon all of its property.

Applicant operates a ranch with about 200 acres in cultivation, a flouring mill and the electric plant. Its stock is owned by eight brothers and sisters who desire to segregate the mill and lighting plant from the ranch. Lease of the electric plant, flouring mill and mill site for a period of five years from January 1, 1916, at a rental of \$500.00 per year, lessee to make repairs and replacements, has been authorized at a special meeting of the stockholders, subject to the approval of the Commission. Apportionment of the rental between the mill and electric plant has not been made. It may be considered upon any future proceeding when it is in point.

It appears that the public will be as well served by lessee as by applicant. The lease will, therefore, be authorized.

ORDER.

McKinley Bros., Inc., having applied to the Railroad Commission for an order authorizing it to lease to Sidney H. McKinley for a period of five years from January 1, 1916, its electric plant serving electric energy to the inhabitants of Middletown, Lake County, and a public hearing having been held thereon, and it appearing that the public will be as well served under said lease as by applicant,

It is hereby ordered that McKinley Bros., Inc., a corporation, be and it is hereby authorized and empowered to hereafter execute and deliver lease of its electric plant, machinery thereof and distributing system in the form attached to the application as Exhibit "B."

This order is upon the following conditions:

1. That Sidney H. McKinley shall assume and discharge all of the obligations now resting by law upon applicant for the service of the public, and that he will give adequate and complete service to consumers and the public in Middletown and vicinity from the system leased.

2. The authority hereby given to execute said lease is for the purposes of this proceeding only, is an approval of said lease only in so far as this Commission has jurisdiction, and is not intended as an approval of said lease as to any other legal requirement to which it may be subject.

3. The authority hereby given shall apply only to such lease as may hereafter be executed on or before June 1, 1916.

4. Applicant shall report in writing to the Railroad Commission within twenty days after the execution and delivery thereof the fact that said lease has been hereafter executed and delivered, the date on which it was done, and supply copy thereof.

Dated at San Francisco, California, this 6th day of April, 1916.

DECISION No. 3240.

CLARA S. HOFF, WIFE OF E. J. HOFF,

*vs.*GEORGE S. MONTGOMERY AND CARRIE JUDD MONTGOMERY,
HIS WIFE.

Case No. 887.

Decided April 6, 1916.

Complainants petition the Commission to compel defendants, operating a small water system, to install certain extensions. Defendants contend that a water system operated by individuals is not a "water corporation," and accordingly the Commission has no jurisdiction over them, as their system does not constitute a public utility.

Held. That a water system operated for compensation is a public utility, irrespective of whether it is operated by a company or individuals. That it would be unjust to compel defendants to make the extensions petitioned for entirely at their own expense. Extensions directed to be made, provided the utility shall bear the expense of the first 100 feet of pipe, the cost of the balance to be deposited by the prospective consumer and to be returned by the company at the rate of 50 per cent per month of the consumer's monthly bill.

E. J. Hoff, for Complainant.*F. A. Borlin*, for Defendants.

REPORT OF THE COMMISSION.

The complaint herein alleges that defendants, George S. Montgomery and Clara Judd Montgomery, his wife, are operating a public utility water system at Cazadero, Sonoma County, California, and prays for an extension of the mains of that utility to serve two tracts of land owned by complainant in that vicinity.

Defendants filed exceptions and a demurrer to the complaint—the principal point therein raised being that this Commission had no jurisdiction over the subject matter of the complaint.

In support of the demurrer and exceptions, defendants filed an argument in which the position was taken that because subdivision (*bb*) of section 2 of the Public Utilities Act of California refers only to water utilities which are "water corporations," and that the Commission had no jurisdiction over the defendants because there was no allegation that the defendants were a water corporation. Such an allegation is, in our opinion, unnecessary.

Subdivision (*x*) of the same section of the said act is as follows:

"(*x*) The term 'water corporation,' when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any water system for compensation within this state."

The term "water system" used in the last section named is defined by subdivision (*w*) of the same section of said act, and is as follows:

"(*w*) The term 'water system,' when used in this act, includes all reservoirs, tunnels, shafts, dams, dikes, headgates, pipes, flumes, canals, structures and appliances, and all other real estate fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage, apportionment or measurement of water for power, irrigation, reclamation or manufacturing, or for municipal, domestic or other beneficial use."

Upon order of the Commission to satisfy or answer the complaint, defendants filed their answer, specifically reserving unto themselves the points raised by them on demurrer, and denying all the allegations in plaintiff's complaint contained.

At the hearing of the case, the Commission did not rest its determination as to its jurisdiction upon the allegation of the complaint of the plaintiff to which the demurrer and exceptions of defendants were addressed, but took evidence on the subject and character of the company.

The following facts were developed in the testimony taken at the hearing, and each statement of a fact herein contained is to be regarded as a finding of fact.

Defendants herein are owners of certain springs near Cazadero, California. From those springs defendants' predecessor supplied water to his neighbors, more as an accommodation than anything else, for a great many years. Upon the acquisition of the property by defendants, defendants continued this practice and are continuing so to do.

Defendants are, and at all times mentioned in the pleadings of this action were, supplying water to a portion of the community of Cazadero and were charging the consumers thereof for the service of that water to them. Defendant George S. Montgomery himself testified that at the time of the hearing he was supplying eleven consumers with water, and that his agent at Cazadero made monthly reports to him of the receipts from the sale of water.

There can be no question, and we find as a fact, that the defendants herein are owning, controlling, operating and managing a water system within this State, and that they are selling water to a portion of the public for compensation.

Under the terms of subdivision (*bb*) of section 2 of the Public Utilities Act and chapter 80 of the Laws of 1913, it must, therefore, be held that defendants are a public utility and are subject to the control and regulation of this Commission.

Having determined that the pipe lines and appurtenances used for the distribution of water at Cazadero, and now admittedly owned by the

defendants in this proceeding, is a public utility water distributing system, it becomes necessary to determine the extent to which the system is obligated to give service as demanded by complainants. The arrangement made with complainant by S. R. Break, who at the time was in control of the pipe lines and was endeavoring to sell portions of the real estate formerly owned entirely by George S. Montgomery, under the agreement between the said Montgomery and Break, filed with the Commission as defendants' Exhibit No. 1, impressed the system and the owner, whoever he might be, with some obligation.

As a public utility, the obligation claimed against the system by complainants to furnish free water, can not be sustained. Any rate that may be established by this Commission will apply equally upon all who receive the same class of service. There is, however, no doubt that the service undertaken to consumers in Cazadero may be considered to have been established, as a part of the district to be served, each and every parcel sold by S. R. Break, either as agent for George S. Montgomery or as an individual operating independently. The land on which complainants desire service was obtained through the agency of S. R. Break and was transferred to complainants by deed from George S. and Carrie Judd Montgomery.

The Commission has, in its Decision No. 2879, laid down certain general rules in relation to the extension of service by water, gas, electric and telephone utilities in this State. The extension sought in this case lies within unincorporated territory and of the rules above referred to the following is applicable:

"Rule 16. A water, gas, electric, or telephone utility shall make such reasonable extensions in unincorporated territory at its own expense, as it can agree upon with the applicant for service; provided, that in any case in which the construction of an extension at the utility's sole expense will in its opinion work an undue hardship upon the utility or its existing consumers, the matter may be submitted to the Commission as provided by section 36 of the Public Utilities Act, unless satisfactorily adjusted by an informal application to the Commission."

We believe that the construction of the extension sought by complainant at the utility's sole expense will work undue hardship upon the utility. The extension should be made, however, and in the following order the Commission will undertake to lay down such terms as to it seem fair and equitable to both parties herein. The decision herein is necessarily limited to the facts of this case.

ORDER.

Clara S. Hoff having applied to this Commission for an order directing the defendants, George S. Montgomery and Carrie Judd Montgomery, his wife, owners and operators of a public utility water system

in the town of Cazadero, California, to serve complainant as a consumer of such utility, and a public hearing in relation thereto having been held by this Commission, at which hearing both parties introduced evidence, and the case having been submitted and being now ready for decision,

It is hereby ordered that George S. Montgomery and Carrie Judd Montgomery, his wife, owners and operators of a public utility water system in the town of Cazadero, California, be, and they are hereby, directed to extend the water mains of said utility in said town of Cazadero to serve with water for domestic use those certain tracts of land situate, lying and being in the county of Sonoma, State of California, and particularly described as follows, to wit:

“Beginning at the intersecting quarter section line and Allen street on west and running in a westerly direction three hundred seventy-seven (377) feet more or less to the intersecting of this section line and another section line and running then in a northerly direction 275 feet more or less to the intersection of Lawrence avenue and thence on the southerly line of Lawrence avenue to Gard street and following the westerly line of Gard street to Allen street and following the northerly line to point of beginning, comprising six (6) acres more or less, being in the southwest corner of subdivision four (4), Cazadero townsite, as shown and described on a certain map entitled Map of Cazadero Townsite, of subdivision No. 4 thereof, and recorded in the office of the county recorder of the said county, on the 14th day of September, 1910, in Map Book No. 21, at page 18 thereof; and

All the land bounded by Lawrence avenue, Short street, Break street, and Chapman avenue, and the westerly boundary line of said Cazadero townsite, containing six (6) acres more or less, as shown and described on that certain map entitled Cazadero Townsite Subdivision Four, as recorded in the office of the county recorder of the said county, on the fourteenth day of September, 1910, in Map Book No. 21, at page 18 thereof.”

Payment for any such extension made as herein directed shall be made in the following manner:

The first 100 feet of the pipe line of any such extensions in each instance shall be installed at the expense of the utility. All of such extensions beyond the first 100 feet thereof in each instance shall be made, provided complainant deposits with the utility the necessary cost of installation thereof. Said deposit shall be refunded to the depositor by giving the said depositor credit on each and every water bill paid to the utility for service on the above described tracts in an amount equal to one-half of such water bill, until the total amount of said deposit shall be refunded.

Dated at San Francisco, California, this 6th day of April, 1916.

DECISION No. 3241.

EAST BAKERSFIELD IMPROVEMENT ASSOCIATION

*vs.*SAN JOAQUIN LIGHT AND POWER CORPORATION AND BAKERSFIELD
GAS AND ELECTRIC CORPORATION.

Case No. 618.

PERKINS BROTHERS COMPANY ET AL.

vs.

SAN JOAQUIN LIGHT AND POWER CORPORATION.

Case No. 655.

H. J. BEAL ET AL.

vs.

SAN JOAQUIN LIGHT AND POWER CORPORATION.

Case No. 732.

MRS. S. McMASTERS ET AL.

vs.

SAN JOAQUIN LIGHT AND POWER CORPORATION.

Case No. 800.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND
POWER CORPORATION FOR AN ORDER ASCERTAINING AND
ESTABLISHING JUST AND REASONABLE RATES TO BE CHARGED
FOR ELECTRIC ENERGY.

Application No. 1666.*Decided April 6, 1916.*

In connection with the consolidated cases here under consideration, the Commission reviews all present rules, regulations, rates, contracts, and practices of defendant corporation, particularly its agricultural power rates and its form of contracts therefor, in connection with which a valuation is made of defendant's electrical properties and allowances for franchises, going concern and water rights given particular attention.

Contracts: Defendant requires contracts for all forms of service other than lighting. Quoting the general rules laid down in Case No. 683, the Commission holds that a utility has no right to require the signing of a contract as a condition precedent to service except when unusual conditions prevail, such as an abnormal investment on the part of the utility which would occasion considerable loss should service be discontinued after a short period.

Held, That defendant's agricultural business is scattered over a considerable area which necessitates heavy expenditures to serve individual consumers, accordingly a form of contract covering a three-year or seasonal period established, as is also a noncontract rate, for this class of service, provided that all such contracts shall contain a clause to the effect that the provisions thereof are subject to alteration by the Commission, should conditions warrant, and also provided that after a contract shall expire at the end of its initial three-year period the consumer shall then be entitled to receive service from year to year without the necessity of signing a second contract for a like period of time.

Should a consumer find himself in a position where a contract proves extremely burdensome, the Commission reserves the right, after an investigation, to terminate same under just and equitable conditions to the utility. Contracts for industrial service found to be unreasonable and unnecessary and their discontinuance directed; however, contracts for street lighting are found reasonable and rules established accordingly.

Defendant's contracts at present contain a clause to the effect that bills incurred thereunder shall be a lien upon the property of the consumer; such provision does not appear warranted, and its elimination directed, as is also a provision to the effect that consumer waives all claims for damages owing to interruptions to service, etc.; it is held that any claims of such a nature which may arise should take their course under the usual rules of law applicable thereto. Clause limiting the use of power for pumping purposes only abolished, future contracts to provide that the energy purchased may be used for any purpose to which it may be applicable. Clause making it compulsory for consumer to grant defendant a right of way across his premises held unreasonable.

Maximum Demand; charges based on: That this method of commuting rates is extremely burdensome and discriminatory; that the necessity therefor has long since disappeared, and the continuance of such a system at this time is unwarranted. Rates based on connected load established, any individual hardships arising thereunder to be drawn to the attention of the Commission for adjustment. Larger consumers whose use is subject to more or less variation, will justify the installation of individual measuring devices.

Transformers: That transformers are a necessary instrumentality in the rendition of service, therefore defendant's practice of charging certain classes of consumers the cost thereof and installing same for other consumers at its own expense is clearly discriminatory. Defendant to take over all transformers up to the present time paid for by consumers, and in the future to make all such installations at its own expense, exceptions provided.

Service: Considerable complaint was made relative to frequent interruptions to service. Evidence showing that such interruptions have been considerably ameliorated during the past year, the necessity for an order on this subject is removed for the present. Defendant to stand any expense incurred for the relocation of meter boxes, and to refund amounts expended by consumers for the relocation of boxes under the ruling adopted in 1914.

Extensions: Defendant having resumed its original policy of making all reasonable extensions at its own expense, no order required at the present time covering this phase of service.

Valuation: A reproduction value of \$9,861,383.00 for defendant's tangible electric properties is found by the Commission's engineers, using an overhead percentage of 15.394 per cent, which includes an item of 5.266 per cent for administration and superintendence; allowing 2.5 per cent for the latter item, the sum of \$9,601,119.94 is also found by such engineers as against a value of \$9,988,721.01 filed by defendant.

Franchises: The sum of \$4,761.60, being the actual cost thereof, is the only amount claimed by defendant under this head. This amount is allowed.

Going Concern Value: Defendant claims an allowance under this head of \$1,651,021.00, which includes accumulated deficits incurred during the early years of operation, irrespective of the fact that subsequent earnings have entirely wiped out such deficits, besides earning 8 per cent on every dollar invested and on every dollar of accumulated deficit, including adequate depreciation, amortization of equipment and a considerable surplus.

Held, That in cases such as the present where the rate payers have provided a return of 8 per cent on a utility's investment and an equal per cent on all accumulated deficits, which have been entirely wiped out, there is no logical reason why they should continue to provide a return upon an amount in excess

of that properly allowable for tangible properties, for should such an allowance be made the rate payer would be obliged to pay not only a sum sufficient to wipe out the deficits with interest, but an annual return upon the amounts represented by such deficits already wiped out. United States Supreme Court and various commission rulings cited bearing out this contention. Other than considering the tangible properties as being in successful operation by a going and successful utility, no allowance will be made under the head of going concern value, provided, however, that in cases which might arise where deficits have not been entirely wiped out, the amount thereof will be added under the head of going concern value.

Water Rights: Defendant claims an allowance under this head based (1) on a comparison of cost of generating energy by steam; (2) on an assumed detriment to lower riparian lands caused by the storage of water at seasons during which it would otherwise be available for irrigation. As computations show that the comparative cost of producing energy by steam generators, at the present cost of fuel oil, is less than the cost of production by hydroelectric process, a negative value for defendant's water rights results, and would so continue until the price of fuel oil increased over 50 per cent of its present cost. An investigation into actual conditions also show that owners of lower riparian land considered the storage of water by defendant a benefit instead of a detriment to their irrigation work, so that no consideration can be given to defendant's claims for water right values upon these grounds. Defendant's permit from the Federal Government for the construction of its Crane Valley Reservoir includes a clause prohibiting the capitalization of such grant for the purpose of earning a return thereon, and considering that when claims are made for water right values, such claims must be sustained by the utility making same, which has not been done in the present case, accordingly no value will be allowed under this head other than the moneys actually expended by defendant and its predecessors in connection therewith.

Rate of Return: Rate of 8 per cent is allowed upon the fair value of the properties of defendant, and the sum of \$804,363.20 is decided upon as a just and reasonable annual amount to be received by the company. Depreciation annuity commuted upon a 6 per cent sinking fund basis.

Rates: Schedules of rates for all classes of service established to become effective April 20, 1916, the revised schedules to include a rate of \$42.30 per horsepower of connected load per annum in lieu of the present annual flat rate of \$50.00 per horsepower and three-year and seasonal terms established instead of the five-year periods at present in effect. The present maximum demand system for residence lighting is abolished and a block system of charges established; the monthly minimum for this class of service is also reduced from \$1.00 to 75 cents. Material changes made in rates for street lighting. A contract at present existing between the Mt. Whitney Company and the defendant, providing for the delivery of a certain amount of energy to the Mt. Whitney Company at specified rates, which contract appears to be disadvantageous to both companies, abrogated, and a contract providing for reciprocal service in emergency cases suggested instead.

Rules and regulations in accordance with the findings contained in the present decision, together with the general rules laid down in Decision No. 2879, established to be filed for approval on or before April 20, 1916.

E. J. Emmons, for East Bakersfield Improvement Association.

Geo. H. Woodruff and *C. L. Russell*, for Complainants in Case No. 655.

A. L. Sayre, for Complainants in Case No. 732.

R. H. Cross and *F. W. Henderson*, for Complainants in Case No. 800.

M. F. McCormick and *W. F. Chandler*, for Merchants Association of Fresno.

Sanborn & Rochl, for Rosenberg Brothers & Co., Guggenhime & Co., and Castle Brothers.

M. F. McCormick, district attorney, for Fresno County.

F. W. Henderson, city attorney, for City of Merced.

R. W. Hayes, for City of Clovis.

Short & Sutherland and *Jared How*, for San Joaquin Light and Power Corporation.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

The above entitled proceedings place in issue all the rates, rules, regulations, contracts, and practices of San Joaquin Light and Power Corporation in connection with its electric business. By consent of all parties, these proceedings were consolidated for hearing and decision.

The complaint in Case No. 618 alleges, in effect, that complainant is a civic organization of the city of Bakersfield, with a membership of more than one hundred persons who consume electric energy in Bakersfield; that defendants are engaged in the business of selling electric energy to the residents of the city of Bakersfield; that the rates charged by defendants for electric energy are unjust, unreasonable, and discriminatory; that defendants compel intending consumers to make deposits before defendants will serve them; that the minimum charge of defendants is unreasonable and discriminatory; that defendants arbitrarily refuse to make connections and furnish electric energy to residents of Bakersfield; and that defendants are compelling consumers of electric energy in Bakersfield to reconstruct meter boxes at an expense of from \$6.00 to \$8.00 each, paid by the consumer, for the alleged purpose of protecting defendants' meters. Complainant asks that this Commission investigate the rates, rules, and regulations of defendants and thereafter prescribe just and reasonable rates, rules and regulations. The answer denies that any of the rates, rules, or regulations of defendants are unjust, unreasonable, or discriminatory.

The complaint in Case No. 655 is signed by more than twenty-five persons and corporations who own agricultural lands in or about McFarland and Wasco, in Kern County, and who are purchasing electric energy from defendant for the purpose of pumping water for irrigation. The complainants complain of the following matters:

1. The five-year term of defendant's standard agricultural power contract.

2. The flat rate of \$50.00 per horsepower per year, which is defendant's most frequently used agricultural power rate.

3. The reasonableness of defendant's flat and meter rates.

4. The time and manner of making measurements to determine the amount of electric energy to be paid for by consumers of electric energy for agricultural purposes.

5. The provisions of defendant's contracts by which the consumers waive certain claims for damages.

6. The inability of the consumers under the agricultural power contracts to use electric energy for any purpose other than the pumping of water for irrigation.

7. The provisions of defendant's contracts under which the consumer of electric energy for agricultural pumping purposes must pay for the installation and maintenance of transformers.

Complainants ask this Commission—

1. To establish just and reasonable rates to be charged by defendant.

2. To establish just and reasonable rules and regulations to be observed by defendant.

3. To abolish the flat rate of \$50.00 per horsepower per year and to establish a lower and more reasonable flat rate in lieu thereof.

4. To order defendant to take a measurement of the amount of electric energy being supplied, at any time, upon demand, and at the expense of the consumer, such measurement to be the basis of future charges until a subsequent measurement shows a different result.

5. To limit the time during which defendant's service may be discontinued during any one month without the necessity of compensating the consumer, to not exceed 40 hours, in the aggregate, in any one month.

6. To direct defendant to permit its consumers of electric energy for agricultural pumping purposes to use such energy for other additional purposes.

7. To direct defendant to install and maintain all transformers for consumers of agricultural power, at defendant's own expense.

The answer denies that any of the rates, rules, regulations, or practices of defendant referred to in the complaint are in any way unjust or unreasonable.

The complaint in Case No. 732 is signed by about one hundred and fifty of defendant's consumers of electric energy for agricultural pumping, residing principally in Fairmead, Berenda, and Madera, in Madera County. The complaint in this case is in substantially the same form as the complaint in Case No. 655, except that the complainants make additional complaint against the provisions of defendant's agricultural power contracts, under which the amount of electric energy for which

payment must be made shall in no event be less than 75 per cent of the manufacturer's rated capacity of the motor. The prayer of the complaint is also substantially the same as the prayer of the complaint in Case No. 655, with the exception that the complainants in Case No. 732 make the additional request that this Commission require the defendant to construct lines for the transmission of electric energy for power purposes, at defendant's own expense, provided that the point of consumption is within a reasonable distance from defendant's existing power lines. The answer denies the material allegations of the complaint.

The complaint in Case No. 800 is signed by twenty-six farmers residing in or about Le Grand, in Merced County. The complaint is directed solely against the charge of \$50.00 per horsepower per annum charged by defendant under its most frequently used agricultural power contract. The complainants ask that a just and reasonable rate for this service be established by this Commission. The answer denies that the existing rate is unjust or unreasonable.

The petition in Application No. 1666 was filed with this Commission subsequent to the filing of the complaints in Cases Nos. 618, 655, 732, and 800. The petition alleges that San Joaquin Light and Power Corporation is a public utility engaged in the business of producing, transmitting, and distributing electric energy for consumption in the counties of Fresno, Kern, Kings, Madera, Merced, Stanislaus, and Tulare, and that said corporation desires this Commission to establish just and reasonable rates to be charged and collected by petitioner for electric energy sold throughout the entire territory supplied by petitioner. The following parties were permitted to intervene in this application: County of Fresno and Merchants Association of Fresno; City of Merced; City of Clovis; Rosenberg Brothers & Company; Guggenheimer & Company and Castle Brothers. Public hearings in the above entitled proceedings were held in Bakersfield, Tulare, Madera, Fresno, and San Francisco. These proceedings were submitted on December 17, 1915, on briefs, which have now been filed.

At the time these proceedings were submitted, the following exhibits had been filed by the respective parties:

1. Complainants in Case No. 618, exhibits numbers 1 to 4, inclusive.
2. Complainants in Case No. 655, exhibits numbers 1 to 6, inclusive.
3. Complainants in Case No. 732, exhibits numbers 1 to 5, inclusive.
4. Le Grand protestants, exhibit number 1.
5. Merchants Association of Fresno, exhibits numbers 1 to 3, inclusive.

6. San Joaquin Light and Power Corporation, exhibits numbers 1 to 36, inclusive, and one exhibit in connection with the Mt. Whitney Power and Electric Company contract.
7. Railroad Commission, exhibits numbers 1 to 5, inclusive.

It was stipulated that the following documents should be considered as being in evidence without the assignment of a formal exhibit number: all rates, rules, and regulations of San Joaquin Light and Power Corporation on file with the Railroad Commission, including all deviations; J. G. White & Company's inventory and appraisal of the electric properties of San Joaquin Light and Power Corporation, filed in Application No. 992; the file in the matter of the informal complaint of C. F. Murray, filed in September, 1915; the complete file of "Rate Research"; the last Federal census report and the reports of the State Board of Equalization and of the State Board of Agriculture, in so far as they relate to the growth of the territory served by the utility herein; and all documents filed with this Commission referring to Tulare County Power Company.

It was further stipulated that such documents as might be filed by the parties subsequent to the last hearing in these proceedings should be considered as evidence in these proceedings. The following documents have been filed by San Joaquin Light and Power Corporation, have been given the exhibit numbers indicated, and will be considered as being in evidence in these proceedings:

San Joaquin Light and Power Corporation.

Exhibit.	Subject matter of exhibits.
No. 37.	Minimum charge data.
No. 38.	General data.
No. 39.	Development cost.
No. 40.	Cost of developing business.
No. 41.	Explanation of distribution of administrative expense.
No. 42.	Casualty insurance account.
No. 43.	Proper minimum monthly bill for rural lighting consumers.
No. 44.	Cost of money and rate of return for all departments.
No. 45.	Comparison of operating expenses with other companies.
No. 46.	Load factor of citrus and alfalfa growers' plants.
No. 47.	Additional data on proposed additions and betterments.
No. 48.	Probable increases and decreases in operating expenses for 1916 as against 1915.
No. 49.	Comparison of flat irrigation charges of San Joaquin Light and Power Corporation with similar charges of other electric utilities.
No. 50.	Proposed rate schedule.
No. 51.	Substation data.
No. 52.	Analysis of consumption of commercial lighting consumers for March, 1915.
No. 53.	Alfalfa hay prices submitted by Schmitz.
No. 54.	Letter from San Joaquin Light and Power Corporation, dated November 15, 1915, referring to certain Fresno complaints.
No. 55.	Letter from San Joaquin Light and Power Corporation, dated November 29, 1915, referring to account of Mr. O. B. Wulbern.

- No. 56. Letter from San Joaquin Light and Power Corporation, dated February 28, 1916, containing data with reference to commercial lighting consumers for March, 1915.
- No. 57. Letter from San Joaquin Light and Power Corporation, dated March 1, 1916, with new consumers' tag and forms of bills.
- No. 58. Final water power permit from United States Department of Agriculture covering lands in Sequoia National Forest.
- No. 59. Power agreement with United States Department of Agriculture covering Crane Valley dam and reservoir and other developments in Sierra National Forest.
- No. 60. Contract dated June 14, 1909, between Miller & Lux, Incorporated, and San Joaquin Light and Power Company.
- No. 61. Details of Exhibit No. 27—cost of service.
- No. 62. Letter from San Joaquin Light and Power Corporation, dated March 4, 1916, enclosing tabulation of evaporation losses for Crane Valley reservoir.
- No. 63. Letter from San Joaquin Light and Power Corporation, dated September 30, 1915, enclosing map showing location of hydroelectric properties on North Fork of San Joaquin River.
- No. 64. Data on power consumers, 1915.
- No. 65. Cost of money secured from sale of bonds.
- No. 66. Analysis of Railroad Commission and other expenses.

The San Joaquin Corporation's Annual Report for the year ending December 31, 1915, has been filed, and will also be considered as being in evidence herein.

The subject matter of this opinion will now be considered under the following heads:

- I. San Joaquin Light and Power Corporation and its predecessors.
- II. Territory and consumers served.
- III. Stock, bonds and notes.
- IV. Financial statement.
- V. Electric properties.
- VI. Contracts.
 - 1. Propriety of.
 - 2. Liens on land.
 - 3. Waiver of damages.
 - 4. Purposes for which electric energy may be used.
 - 5. Rights of way.
 - 6. The maximum demand system.
 - 7. Transformers.
- VII. Service.
 - 1. Quality of.
 - 2. Meter boxes.
- VIII. Extensions.
- IX. Rates.
 - 1. Existing rates.
 - 2. Value of property.
 - (a) Investment.
 - (b) Estimated reproduction cost new.
 - (c) Estimated cost of reproduction new, less depreciation.
 - (d) Franchises.
 - (e) Going concern value.
 - (f) Water rights.
 - (g) Fair return.

3. Operating expenses.
 4. Depreciation annuity.
 5. Cost of service.
 6. Discriminations.
 7. Agricultural power.
 8. Oil well power.
 9. Mining power.
 10. Industrial power.
 11. Commercial lighting.
 12. Residence lighting.
 13. Street lighting.
 14. Contract with Mt. Whitney Light and Power Company.
- X. Rules and regulations.

I.

San Joaquin Light and Power Corporation and Its Predecessors.

The San Joaquin Light and Power Corporation was incorporated under the laws of California on July 19, 1910, and is the successor of a number of public utility corporations theretofore operating in the San Joaquin Valley. The first in time of these utilities was San Joaquin Electric Company, which was incorporated on March 30, 1895. The business of this corporation was conducted from August, 1899, to December, 1902, by John J. Seymour, as receiver. In December, 1902, the property was purchased by San Joaquin Power Company. San Joaquin Power Company in 1903 purchased the steam plant and distributing system of Fresno Gas and Electric Company. In 1905, San Joaquin Power Company was reorganized under the name of San Joaquin Light and Power Company. This company acquired by purchase the property of the following utilities: in 1907, Selma Light and Water Company; in 1909, Lemoore Light and Power Company and Sanger Light and Power Company.

In 1910, San Joaquin Light and Power Company was taken over by San Joaquin Light and Power Corporation, the present utility. During the same year, San Joaquin Light and Power Corporation also acquired control of Merced Falls Gas and Electric Company and Power Transit and Light Company. By the purchase of Power Transit and Light Company, San Joaquin Light and Power Corporation also secured control of Power Development Company, Bakersfield Gas and Electric Light Company and Bakersfield and Kern Electric Railway Company.

II.

Territory and Consumers Served.

The San Joaquin Light and Power Corporation, hereinafter referred to as the San Joaquin Corporation, sells electric energy in all or a portion of the counties of Merced, Mariposa, Fresno, Madera, Tulare, Kings, and Kern, in the San Joaquin Valley. Electric energy is sold in the cities or towns of Bakersfield, Clovis, Corcoran, Dinuba, Firebaugh,

Kingsburg, Fowler, Fresno, Lemoore, Los Banos, Madera, Maricopa, Merced, McKittrick, Reedley, Sanger, Selma, and Taft, and in the territory embraced within the general area in which these cities or towns are located. During the year ending December 31, 1915, the San Joaquin Corporation sold electric energy to 12,934 residence lighting consumers, 4,892 commercial lighting consumers, 179 municipal lighting consumers, 1,591 industrial power consumers, 857 agricultural power consumers and 27 other power consumers. To these customers, the San Joaquin Corporation sold electric energy in the following amounts: for residence lighting, 2,927,796 kilowatt hours; for commercial lighting, 6,924,745 kilowatt hours; for municipal lighting, 1,577,133 kilowatt hours; for industrial power, 26,121,522 kilowatt hours; for agricultural power, 18,767,408 kilowatt hours; and for all other power, 22,500,096 kilowatt hours.

The San Joaquin Corporation sells gas in and about Bakersfield, Merced, and Selma. Natural gas is sold in and about Bakersfield, and artificial gas in and about Selma and Merced. During the year ending December 31, 1915, the San Joaquin Corporation had 3,861 consumers of gas in and about Bakersfield; 552 in and about Merced; and 325 in and about Selma.

The San Joaquin Corporation sells water in and about Madera and Selma, and also owns and operates the electric street railway in Bakersfield.

The present proceedings involve only the electric business of the San Joaquin Corporation.

III.

Stock, Bonds and Notes.

The articles of incorporation of the San Joaquin Corporation provide for an issue of common stock of the par value of fifteen million dollars and preferred stock of the par value of ten million dollars. Of the stock so authorized, common stock of the par value of eleven million dollars and preferred stock of the par value of six million five hundred thousand dollars is now outstanding.

This Commission's auditing department reports that on December 31, 1915, there were outstanding in the hands of the public as obligations against the San Joaquin Corporation, bonds of the San Joaquin Corporation and predecessor corporations of the total face value of \$8,880,000.00. These bonds bear interest partly at the rate of 5 per cent and partly at the rate of 6 per cent per annum.

On December 31, 1915, the San Joaquin Corporation had outstanding notes payable of the face value of \$331,376.17. On the same day the corporation had other current liabilities amounting to \$403,423.56. Various reserve accounts on the same day amounted to \$1,165,738.19.

IV.

Financial Statement.

This Commission's auditing department reports book assets and liabilities of San Joaquin Corporation on December 31, 1915, including all departments of the corporation's business, as follows:

TABLE No. I.

*Assets and Liabilities of San Joaquin Light and Power Corporation—
December 31, 1915.*

ASSETS.

Fixed assets—

Electric plant	\$9,667,911 25
Gas plant	540,990 19
Water plant	109,904 04

Total fixed assets	\$10,318,805 48
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Intangible assets—

Rights and franchises	\$13,770,298 75
Bond discount and expense	441,944 72
Stock discount	1,250,000 00
Plant appreciations	1,546,883 28

Total intangible assets	17,009,126 75
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Current assets—

Cash	\$215,529 21
Notes receivable	315,020 36
Accounts receivable	339,844 06
Materials and supplies	305,901 41
Sinking funds	127,649 47
Prepayments	1,218 52
Treasury securities	145,690 47
S u s p e n s e (mostly undistributed disburse- ments)	122,425 17
Bakersfield and Kern Railway stock	250,000 00
Bakersfield and Kern Railway account	354,227 56

Total current assets	2,177,506 23
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Total assets	\$29,505,438 46
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LIABILITIES.

Capital liabilities—

Common stock	\$11,000,000 00
Preferred stock	6,500,000 00
Bonds	8,880,000 00

Total capital liabilities	\$26,380,000 00
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Current liabilities—

Taxes and insurance account.....	\$3,654 75
Bond interest account	153,250 01
Other interest account	9,419 83
Sinking fund account	68,041 50
Deposits	44,779 92
Prepayments	23,756 99
Notes payable	331,376 17
Accounts payable	70,098 17
Pay rolls payable	30,422 39

Total current liabilities 734,799 73

Reserve accounts—

Depreciation	\$1,136,947 87
Casualty	4,600 03
Insurance	4,900 00
Bad debts	7,491 00
Sinking fund accretions	11,739 29

Total reserve accounts..... 1,165,738 19

Surplus capital	\$321,259 98
Corporate	903,640 56

1,224,900 54

Total liabilities \$29,505,438 46

The auditing department reports income recapitulation and adjustment of the San Joaquin Corporation's entire business for the year ending December 31, 1915, as follows:

TABLE No. II.**Income Recapitulation and Adjustment of San Joaquin Light and Power Corporation—1915.**

Net revenue electric	\$310,363 34
Net revenue gas.....	59,820 47
Net revenue water	811 42
	\$370,995 23

Add:

Jobbing and merchandise revenue.....	\$3,224 68
Interest received	6,560 60
Miscellaneous earnings	2,576 97
	12,362 25

\$383,357 48

Deduct:

Depreciation general capital	\$250 00
Depreciation horses, wagons, etc	1,856 13
Depreciation autos, etc.	3,209 52
Teamings	2,344 58
Bad debts and other reserves	4,800 00
	12,460 23

Net earnings, year 1915..... \$370,897 25

The auditing department reports revenues and expenses of the San Joaquin Corporation's electric business for the year ending December 31, 1915, as follows:

TABLE No. III.

Electric Revenues and Expenses, San Joaquin Light and Power Corporation—1915.

<i>Revenues—</i>		
Municipal lighting -----	\$69,692 42	
Commercial and residence lighting -----	594,791 68	
Power -----	874,113 54	
Charged to Bakersfield and Kern Railway---	27,867 89	
		<hr/> \$1,566,465 53
<i>Expenses—</i>		
Operation -----	\$145,214 20	
Maintenance -----	54,275 09	
General and administration expenses-----	227,654 80	
License, taxes and insurance-----	97,063 24	
		<hr/> 524,207 33
Net earnings from operation -----		<hr/> \$1,042,258 20
Depreciation -----	\$220,205 19	
Interest on bonds -----	401,709 80	
Interest on floating debt -----	81,006 95	
Amortization of bond discount and expense--	28,972 92	
		<hr/> 731,894 86
Net revenue electric -----		<hr/> \$310,363 34

The gross revenue from the sale of electric energy in the year 1915 was \$12,017.65 in excess of the revenue for the year 1914, notwithstanding the falling off of the oil-pumping business.

V.

Electric Properties.

The present electric production system of the San Joaquin Corporation consists of hydroelectric developments on the San Joaquin River (in Madera County), on the Tule River (in Tulare County), and on the Kern River (in Kern County), and an auxiliary and stand-by steam generating plant in Bakersfield. In January, 1916, the small hydroelectric plant at Merced Falls, which plant was washed out by a flood in January, 1911, was again placed in operation. However, inasmuch as any necessity which exists for the Merced Falls plant is of a more or less temporary nature, and because the reconstruction of the plant was probably influenced more by the desire of the San Joaquin Corporation to protect its water rights at this point than by any urgent necessity, it need not be considered in connection with the permanent production system.

The present San Joaquin River development consists of a storage reservoir in Crane Valley on the North Fork of the San Joaquin River,

Power House No. 3, with a rated capacity of 2,000 kilowatts, also on the North Fork, and San Joaquin Power House, also known as Power House No. 1, having a capacity of 16,000 kilowatts at unity factor, located on the main river below the junction of the North Fork. Crane Valley reservoir has an apparent maximum capacity of 51,000 acre-feet, and an actual capacity of approximately 40,000 acre-feet of water impounded by a combination earth and rock fill dam measuring 1,860 feet in length at the top and having a maximum height of 150 feet.

The water from Crane Valley reservoir passes through the outlet tower, where the outflow is regulated, into a horizontal tunnel under the dam and into a concrete basin fitted with an outflow weir. From this point the water enters the conduit system, consisting of a series of canals, tunnels, and flumes, having a capacity of 100 cubic feet per second, and is conveyed for a distance of about $4\frac{1}{4}$ miles, to the regulating reservoir of Power House No. 3, where a fall of 401 feet is available. From the regulating reservoir the water flows through a tunnel and steel pipe line of 60 to 52 inches in diameter for a distance of 3,111 feet, terminating at the power house, where the water is utilized to drive four overhung Doble tangential water wheels direct connected to two 1,000 K.W. generators. After being discharged from Power House No. 3, the water is allowed to pass down the canyon of the North Fork to a point near the junction of that stream and the South Fork, where a small diversion weir serves to form a pond, from which water from both the North Fork and the South Fork is supplied to the conduit system serving San Joaquin Power House No. 1. This conduit system, consisting of approximately 4.5 miles of tunnels, canals, and flumes, terminates in an eight-acre regulating reservoir having a capacity of about 35 acre-feet. San Joaquin Power House No. 1 is supplied from this reservoir through two pipe lines, which vary in diameter from 44 inches at the top to 34 inches at the bottom, and have a total length of some 4,300 feet. The hydraulic head at this point is about 1,425 feet. The generating equipment of San Joaquin Power House No. 1 consists of four 4,000 K.V.A. 2,300 volt units direct connected to single impulse wheels operated with two needle nozzles. The discharge from this power house is directly into the main San Joaquin River. At this point it may be well to call attention to the fact that the present San Joaquin Power House No. 1, completed in 1911, was constructed on the site occupied by the old San Joaquin Power House, which was constructed about 1896, and was operated until displaced by the new plant. The power house building of the old plant is being used at the present time as a store room, and the old pipe line from the same regulating reservoir and apparently still in good condition, is not used for any purpose in connection with the present operations of the company.

The Tule River development, although construction work was started in 1903, was not placed in operation until some time in the spring of 1914. This development consists of a single hydroelectric plant known as Tule Power House operated under a static head of 1,535 feet without storage. Water is diverted from the Doyle Branch of the Tule River at a point known locally as Doyle's Ranch, from which place it is taken directly into the conduit line, consisting entirely of tunnels and covered concrete ditch, for a distance of 17,115 feet to a concrete surge tank at the head of the pressure pipe line. From this point the water is carried to the power house, located on the Doyle Branch a short distance above its confluence with the Nelson Branch of the Tule River, through a steel pipe line approximately 3,600 feet in length and varying in diameter from 36 inches at the top to 30 inches at the bottom. In the power house are located two main generating units each having a rated capacity of 3,000 K.V.A. and directly connected to 3,600 horsepower impulse water wheels. This power plant is connected to the main 60,000 volt system at Strathmore, Tulare County.

The oldest of the hydroelectric developments owned by the San Joaquin Corporation is located on the Kern River, and is known as the Kern Canyon Power Plant. This plant was constructed by the Power Development Company in 1895. Although the flume which originally conducted the water from the point of diversion to the head of the penstock has since been entirely replaced by a tunnel, the plant is now operating as originally built, except for changes made in the original water wheels prior to 1901 and a few minor replacements and additions. Water is diverted from the Kern River about two miles above the mouth of the canyon by a natural dam, through 8,500 feet of concrete lined tunnel, and is delivered directly into a pressure pipe line 66 inches in diameter and 660 feet long. The total drop at this point is 212 feet and the water is utilized to operate three 450 K.W. generators. Power from the Kern Canyon Plant is transmitted a distance of 15 miles over two 10,000 volt circuits, to Bakersfield, where connection is made with the company's main system.

The Bakersfield steam plant is used both as an auxiliary and as a stand-by station. The first permanent unit, a 2,500 K.V.A. turbo-generator, was installed during the spring of 1911; a second turbine unit, rated at 6,250 K.V.A. with 5,000 K.W. steam end, was placed in operation in November, 1911; and the third turbine unit, identical with the second unit but rated at 7,800 K.V.A. with 6,250 K. W. steam end, began operating during the latter part of 1913. While the present aggregate rated capacity of the three turbo-generators is 16,550 K.V.A. this entire capacity is probably not available at the present time owing to the limitations imposed by boiler capacity. At the present time there

are installed in the Bakersfield plant 6,048 boiler horsepower water tube boilers, four of the boilers being rated at 304 horsepower and the other eight at 604 horsepower each. This plant is connected through ample transformer capacity to the company's main 60,000 volt transmission system as well as to the 11,000 volt system.

In addition to the production plants above referred to, the San Joaquin Corporation maintains at Fresno, in the old steam plant building, a 750-horsepower horizontal cross-compound engine, belt connected through an arrangement of clutches between two motor generator sets. Ample boiler capacity is maintained for this unit and under certain conditions it could be considered as a reserve unit in so far as the local street railway load is concerned, although I question the reasonableness and necessity of any such stand-by, considering the large amount of money invested in duplicate and interconnected production and transmission facilities.

Power House No. 3 is connected to San Joaquin Power House No. 1 by a single 30,000 volt circuit. From Power House No. 1, two 60,000 volt circuits lead to the Coppermine substation, and at this point branch out and form what is known as the "East Loop" and the "West Loop" of the main transmission system. The east loop of the 60,000 volt system extends in a general southerly direction from Coppermine substation, along the foothills on the east side of the valley, through Tulare and Kern counties to Bakersfield. The west loop of the main transmission system extends from Coppermine substation to the north and west of Fresno, thence in a general southerly direction to Henrietta substation where a branch line is taken off westerly to Coalinga, thence continuing south and passing to the west of Tulare Lake and through the Lost Hills, Midway and Sunset oil fields, finally reaching Bakersfield from the south.

The 30,000 volt transmission system also radiates from Coppermine substation, one line serving Madera, Merced, Merced Falls, and a portion of Mariposa County, and a branch extending due west from a point south of Madera, known as Sayres Corners, serving Mendota, Los Banos, and intervening territory on the west side of the San Joaquin River. Two 30,000 volt lines extend from Coppermine to the city of Fresno. From Fresno one circuit extends in a southerly direction along the Santa Fe railroad through Hanford and Corcoran, finally terminating at the Stoil substation. At Hanford, a cross tie extends westerly through Lemoore to the Henrietta substation where connection is made with the 60,000 volt west loop.

VI.

Contracts.1. *Propriety of.*

The San Joaquin Corporation's rate schedule, on file with this Commission, contains the following provision with reference to the signing of contracts by its customers:

"No contract is required in the event the customer requires only lighting service. If power service is involved, a written contract, such as would be applicable to the schedule selected, must be executed."

In other words, the San Joaquin Corporation requires the signing of a contract as a condition precedent to the service of agricultural power, oil well power, mining power, industrial power, and street lighting.

The general rule with reference to a requirement by a utility that an intending customer must sign a contract before he can secure service was stated by this Commission in its Decision No. 2689, rendered on August 12, 1915, in Case No. 683 (Vol. 7, Opinions and Orders of the Railroad Commission of California, p. 830). In this case, the presiding Commissioner said:

"Water, gas, electric and telephone utilities frequently demand that an applicant sign a contract before service will be delivered. I do not now refer to extensions in unincorporated territory, where unusual conditions frequently obtain. Under the rules herein prescribed, the necessity for such contracts is not apparent. The consumer is bound by the utility's lawful rates, rules and regulations on file with this Commission. No contract is necessary to insure their applicability to him. The utility will secure ample protection under the rules herein established in the matter of payment for its service and for the cost of disconnections and reconnections. The initial installation is added to capital account and is considered when rates are established. It is difficult to find any other reason for compelling an applicant for service to sign such contract other than to hold him for a term beyond that for which he would desire to be held if he were a free agent—a motive to which this Commission can not give its sanction.

"Accordingly I recommend that henceforth an applicant for service from a water, gas, electric or telephone utility be not required to sign a contract as a condition precedent to service; provided that it is not intended herein to pass on the question of contracts in connection with extensions in unincorporated territory, which matter is left open for consideration in subsequent proceedings. Utilities of these classes shall continue to have the right to require applicants to sign reasonable applications for service, so that their records may contain the necessary data with reference to all consumers."

In accordance with this declaration, this Commission adopted the following rule with reference to the execution of contracts for service by intending customers of water, gas, electric, and telephone utilities:

"Rule 12. Except in the case of extensions in unincorporated territory, which matter is left open for consideration in subsequent proceedings, and of extensions in incorporated territory in cases in which the Commission may hereafter authorize the signing of contracts for service, a water, gas, electric, or telephone utility may not require that an applicant sign a contract for service as a condition precedent to service; provided that such utility may require that reasonable written application for service be made."

Hence, except in cases in which special and unusual conditions exist, an electric utility does not have the right to require the signing of a contract as a condition precedent to service. As all the terms and conditions of a contract which properly enter into a rate are ordinarily contained in the rates, rules, and regulations of the utility on file with the Railroad Commission, the only real purpose in compelling an intending customer to sign a contract for service must be to bind him to pay for service for a definite period, even though he might desire to discontinue the service before the expiration of that period. Consequently, the only justification for requiring the signing of such a contract is some unusual condition, such as an abnormally large investment on the part of the utility, which would make it unfair to the utility to leave the customer in such a position that he can discontinue service without further payment, whenever he desires to do so.

Referring now particularly to the agricultural power business of the San Joaquin Corporation, it appears that large tracts of territory served by the San Joaquin Corporation with power for pumping purposes are as yet sparsely settled and that unusually heavy investments must be made by the San Joaquin Corporation, on the average, to construct transmission and distribution lines to serve this class of consumers. Hence, at the present time and under the present conditions, it seems entirely reasonable that the San Joaquin Corporation should require the signing of a contract in the first instance by an intending consumer of agricultural power, unless the consumer can in some other way adequately protect the utility against loss from an early discontinuance of the service. It will also be clear that, when a consumer selects an annual or seasonal rate which is payable in equal monthly installments, a contract should be permitted covering the period for which the particular rate chosen is applicable.

The rates herein established will contain a form of non-contract agricultural power rate, under which rate the utility will be adequately protected. This rate will be an optional rate which can be used by such customers as do not desire to sign a contract, but will necessarily be slightly higher than the contract rates.

One of the chief complaints which arise in connection with the requirement of certain utilities that contracts be signed by intending consumers, is that the consumers signing such contracts generally do not know that redress lies by appeal to the Railroad Commission, in case the terms of such contracts should prove unjust or unreasonable. In order to remove this source of complaint, the San Joaquin Corporation should insert in all its contracts, whether for agricultural power or any other class of service, the following words:

"It is understood by and between the parties hereto that this agreement is merely in the nature of a regulation and is subject at all times, after proceedings duly had, to change or abolition by the Railroad Commission of the State of California."

Similar language has for a number of years been inserted in all the contracts of Mt. Whitney Power and Electric Company, in accordance with this Commission's Decision No. 247, rendered on October 1, 1912, in Application No. 209 (Vol. 1, Opinions and Orders of the Railroad Commission of California, p. 646).

Considerable complaint was directed toward the term of the San Joaquin Corporation's agricultural power contracts, which term has been five years, with an additional two-year term under the so-called "colonization contracts." While a five-year term may have been reasonable during the early agricultural developments of the San Joaquin Corporation, I am convinced from a careful study of the average investment in distributing system to serve agricultural power consumers and of the average revenues from such service that in the present state of development of the corporation's business a term of three years is sufficient.

Complaint was also made of the requirement of the San Joaquin Corporation that upon the expiration of the first five-year period heretofore in effect under the agricultural power contracts, the consumer has been compelled to sign a new contract for a second five-year term. It was urged herein that the necessity for the existence of the contract relationship must be presumed to have ceased at the end of the first term. I am of the opinion that this contention is well founded. The order herein will provide that after service has been received during three years under the agricultural power contracts, service will thereafter be continued from year to year, under the same terms and conditions except the term, as theretofore, unless notice to discontinue at the end of the original term or of any subsequent year be given, without the signing of a new contract. The language to be inserted in the contract shall be similar to that heretofore adopted by the Mt. Whitney Power and Electric Company, *Seaman vs. Mt. Whitney Power and Electric Company* (Vol. 4, Opinions and Orders of the Railroad Commission of California, p. 1362). As hereinbefore indicated, contracts

may continue to be required for flat rate agricultural power service for twelve months or less, except in the cases referred to in the preceding sentence. The mere fact that the particular consumer using the installation has changed will not be sufficient to justify the San Joaquin Corporation in requiring the signing of a contract running beyond the first three-year term.

The evidence in these proceedings revealed a number of instances in which hardship has resulted from the continuing obligation to pay for agricultural power when the consumer could no longer advantageously use it. On complaint of such hardship, the Railroad Commission reserves the right to authorize the cancellation of the contract upon just and equitable terms, under which the utility will secure the protection to which it is entitled in connection with the investment made to serve the discontinuing consumer.

No complaint was made with reference to the signing of contracts in connection with the oil well and the mining power business. Both these classes of business are more or less uncertain and hazardous. Considerable investment to take care of the business is frequently required from the utility. Until the further order of the Commission, the San Joaquin Corporation may require the signature of reasonable contracts as conditions precedent to these classes of service.

I have been able to find no good reason for the continuance of the practice of requiring the signing of contracts in connection with the service of industrial power. A number of the existing contracts seem clearly to be discriminatory as to the rates named therein. These discriminations must all be eliminated by terminating the practice of compelling the signing of contracts and by bringing all cases of this class of service within the uniform rates, rules and regulations herein prescribed.

No complaint was made with reference to the signing by municipalities of contracts for street lighting. To serve this class of business, the utility must make relatively large investments which can not be utilized for other classes of business. It has always been the practice in this State to require municipalities to sign contracts for this class of business. At the present time, I am not satisfied that this practice is unreasonable.

2. *Liens on land.*

The various forms of agricultural power contracts of the San Joaquin Corporation all contain a provision to the effect that the sums due for the electric energy supplied under the contract shall be a lien on the consumer's property. This provision reads as follows:

"It is expressly covenanted and agreed that the electrical energy herein agreed to be furnished is furnished for the benefit of the land, and all sums herein stipulated to be paid by said pur-

chaser to said company shall be a lien on all that certain piece of land (describing the consumer's land), together with all the tenements, hereditaments and appurtenances thereto belonging, and that said company may enforce the same, and in event of a suit thereon, to enforce the payment of any of said sums, said purchaser shall pay all expenses, including a reasonable attorney's fee, to be fixed by the court and included as a part of any of said sums, and of the judgment in such action."

This provision is a survival of the period in the history of this State during which the consumer had no public authority to whom he could look for redress and during which he was compelled to take whatever the utility offered him, whether he considered it fair and reasonable or not. During this period, the contracts presented by utilities to intending consumers for their signature, were frequently drawn in such a way as to accord the utility every possible protection which occurred to the imagination of able counsel, while but little regard was paid to the consumer.

With the exception of but two other utilities, the contracts of which contain a similar provision in a modified form, no electrical utility in California other than the San Joaquin Corporation undertakes at the present time to make its bills a lien on the consumer's land. Furthermore, even the San Joaquin Corporation confines this provision to the purchasers of agricultural power. The farmers in the territory served by the San Joaquin Corporation seem clearly to be discriminated against, in that their bills are made a lien on their land, while no similar provision exists with reference to oil well power, mining power, industrial power, commercial lighting, residence lighting or street lighting.

The San Joaquin Corporation urges that if the provisions with reference to liens on land are eliminated from the agricultural power contracts, it will be necessary for the Corporation, in order to protect itself, to require the payment of flat rate bills monthly in advance. Other electric utilities in California selling electric energy for pumping purposes to the farmers of this State have been able to collect their bills without monthly prepayments in advance and without undue losses. I am satisfied that the San Joaquin Corporation can do likewise.

The provision in the agricultural power contracts of the San Joaquin Corporation providing for a lien on the consumer's land to secure the payment of the corporation's bills shall be eliminated.

3. *Waiver of damages.*

The agricultural power contracts of the San Joaquin Corporation contain a number of provisions by which the consumer is compelled to waive such claims as he may have for damages against the corporation by reason of interruption or failure of service or the energizing of its

lines by the corporation following such interruptions, and also in connection with loss or damage resulting from the electric energy supplied to the consumer, whether such loss or damage accrues to the person or property of the consumer or to any other person. Such provisions are not properly a part of the rules and regulations of a public utility, nor should they be made a part of any contract of service. The parties should be left to the usual rules of law applicable to such circumstances and the utility should not undertake to make the consumer, as a condition of service to him, waive such rights as the law would otherwise give him.

All provisions with reference to waiver of damages shall be eliminated from the San Joaquin Corporation's contracts.

4. *Purposes for which electric energy may be used.*

Considerable complaint was made that consumers taking electric energy for agricultural power purposes under the San Joaquin Corporation's various forms of contracts are not permitted to use the electric energy for any purpose other than for the pumping of water for irrigation, even though the consumer may not, at the time, use the electric energy for this purpose. A number of complainants testified that at times when they are not pumping water for irrigation, they would like to use the electric energy to cut alfalfa or other feed, grind corn, operate a cream separator, pump water for domestic purposes or for stock, or to light the premises. The evidence also shows that in a number of instances the San Joaquin Corporation has permitted consumers who made complaint, to install a double throw switch and to use electric energy for a number of these purposes, at times when not used for the pumping of water for irrigation. It is the uniform practice of Mt. Whitney Power and Electric Company to permit its agricultural power consumers to install a double switch and to use the electric energy for which they are paying, during such times as the motor used in pumping water for irrigation is not being operated, for the purpose of illuminating the residence and grounds.

It is difficult to understand why a farmer who pays a flat rate under which he is entitled the continuous use of a certain maximum amount of power to operate his motor for pumping purposes during the entire year or during certain specified portions of the year, should not have the right to utilize for other purposes the electric energy to which he is entitled, when he does not desire to operate his motor for pumping. The mere fact that an occasional consumer bridges over his switch or in any other manner secures more electric energy than that for which he is paying is, in my opinion, no conclusive argument against the justice or reasonableness of the general practice. The utility has a right to prosecute a consumer who steals its electric energy just as much

as any one else has the right to prosecute any other kind of thief, and all good citizens will uphold a utility in whatever reasonable action it takes in the premises.

A consumer should in my opinion have the privilege of using the full amount of power for which he is paying irrespective of the aggregate amount of his connected load when the maximum demand is controlled by the instrumentality of a double throw switch or other approved demand limiting device and the rates herein established for agricultural power service contemplate the use by the consumer of power for the purpose hereinbefore specified at times when the power is not required for pumping water for irrigation. The Commission will entertain such suggestions as to rules or regulations as the San Joaquin Corporation may offer to protect itself from abuse of this privilege.

5. *Rights of way.*

The various forms of agricultural power contracts used by the San Joaquin Corporation all contain clauses with reference to the grant of rights of way through the premises of the consumer, reading as follows:

"Said purchaser hereby grants to said company the right of way through the premises of said purchaser, without expense, for the erection and maintenance of poles and wire lines, through, over and across said premises, but along the most direct route that the purchaser may select, together with the right of ingress and egress, and with the privilege of a continuance thereof at the option of said company after the expiration of this agreement, and the privilege of removing the same therefrom on the termination of this agreement. It is expressly agreed that the company shall use all reasonable diligence and care to avoid damage to the property of said purchaser resulting from the maintenance of these lines to the point of delivery of such electricity, but shall not be in any manner responsible beyond such point of delivery."

Considerable complaint was made against this provision, particularly in so far as the consumer is compelled to grant a right of way through his premises beyond his own pumping installation to other lands. Such a provision does not seem a reasonable condition precedent to service, and, as far as I know, is contained in the contracts of only two or three other electric utilities in this State. Whether the utility shall have the right to construct its distributing lines on the lands of a customer beyond the customer's pumping installation is a matter which should be left to unfettered bargaining between the customer and the utility. I am satisfied that in most cases a farmer will be entirely reasonable if a neighbor desires service through an extension of the distributing line from the existing installation. In any event, a utility should not have the right to insist on this provision as a condition precedent to

service, any more than it should have the right to insist on securing any other advantage which is not properly connected with the service to the particular consumer.

The provision in the agricultural power contracts of the San Joaquin Corporation with reference to rights of way beyond the consumer's installation shall be eliminated.

6. *The maximum demand system.*

The rates charged by the San Joaquin Corporation for metered lighting service and for both metered and flat rate power service are all based, both as to the unit price at which the energy or service is supplied and as to the minimum charge, on the measured annual maximum demand, except in the case of certain metered power service supplied in connection with the development of oil wells, so-called metered "colonization" agricultural power service, and certain flat rate lighting and metered cooking and heating service. In the excepted cases the basis used is the rated capacity of the installations connected to the company's lines.

A considerable number of the complaints herein were based on the uncertainty and the alleged unfairness to the consumers of the maximum demand system as applied by the San Joaquin Corporation. The agricultural power consumers drew attention to the varying maximum demands of the same pumping installation, depending on the season of the year when the demands are taken, and the commercial lighting consumers complained of largely varying bills paid under this system by consumers who used practically identical amounts of energy.

The method of ascertaining the consumer's maximum demand is set forth in the San Joaquin Corporation's filed rate schedules for metered lighting and metered power service as follows:

"The maximum demand is ascertained and determined by taking watt-meter readings from time to time as the company may elect and for periods of five minutes' duration, and the highest amount ascertained at any of such times shall be the maximum demand. No attempt, however, is made to take readings to determine the maximum demand on strictly residence consumers, all the current being charged at the maximum rate * * *. Such highest amount so ascertained and determined shall continue until the customer has made a material change in his installation and has demanded that a new maximum demand reading be taken."

The measurement of the maximum demand of flat rate power installations other than that of agricultural consumers is described by the San Joaquin Corporation as follows:

"The current supplied is measured with either an integrating watt-hour meter, a printometer watt-hour meter, a graphic recording watt-hour meter, or a maximeter, as the company may elect, depending upon the character of the load."

The method of measuring the maximum demand of flat rate agricultural power service is set forth in the San Joaquin Corporation's filed schedules as follows:

"The electrical energy supplied is measured with an integrating watt-hour meter. The amount of electrical energy to be paid for each calendar month shall be ascertained and determined by measurements taken for a period of five minutes' duration, at such time or times during each year of the contract as the company may elect. The first measurements shall be taken within thirty (30) days after the company shall commence to supply electrical energy, and such measurements shall determine the amount of electrical energy to be paid for * * * unless * * * the use of a greater amount shall be ascertained and determined * * *."

It will be noted that the first measured maximum demand in any year is used as the basis for all subsequent charges unless a *higher* demand is later ascertained, in which event the higher demand governs. It is also important to note that the demand is measured at such intervals as may be convenient or desirable to the San Joaquin Corporation and that the period for which the demand is taken is in each instance five minutes.

Inasmuch as the method employed by the San Joaquin Corporation, in connection with the determination of maximum demands for rate purposes, has been made the subject of severe criticism on the part of a large number of its patrons and because of the importance of the subject, I desire to call attention briefly to the theory of the demand system of charging for electric service, and to point out the inequitable results of the system as applied by the San Joaquin Corporation. We may assume, at least for convenience in considering the general problem, that the cost of furnishing electric service to any consumer or class of consumers consists, first, of the service or consumer cost which may be independent of any demand upon either the output or the peak load capacity of the utility's service facilities; second, the demand or readiness-to-serve cost which is independent of the extent to which the service is utilized; and, third, the energy cost which in turn is independent of the demand created by the operation of the consumer's utilization equipment. Of the three principal elements of cost referred to, the demand cost, under conditions prevailing in the San Joaquin Valley, is by far the most important, and hence under any system of charges, such as that established by the San Joaquin Corporation, the method used in determining the consumer's maximum demand is a matter of paramount importance.

The present method used by the San Joaquin Corporation to ascertain the individual maximum demands of its consumer's lighting and power

equipment is not only a relic of former years, which has long since been discarded by practically every other large operating company, but is also unreasonably expensive to maintain. There may have been, and probably was, ample justification for the adoption of this method of demand determination when the number of consumers was small and their operating characteristics were practically unknown. However, at the present time and under existing conditions, any necessity which may have existed heretofore for the adoption of such a temporary expedient has entirely disappeared.

The operating characteristics of ordinary agricultural and other power installations are well known and can be provided for, readily and equitably, by rates based on the connected load. This system will be provided in the rates herein established. If individual cases of hardship arise under this altered method they may be drawn to the Commission's attention.

Residence and other small lighting installations can be made to yield the proper amount of revenue through the establishment of simple block schedules as herein provided.

Larger power and lighting consumers, whose operating conditions are or may be subject to greater variation, both as to maximum demand and the amount of energy consumed, will yield sufficient revenue to justify the installation of one of the several types of demand indicating and integrating watt-hour meters which are now on the market.

In general, while recognizing the fact that there are exceptions which will require special consideration, I am convinced that no system of electric rates based wholly or largely upon the consumer's maximum demand, as distinguished from his connected load, can be equitably applied except in cases where the maximum demand over a period of not less than fifteen minutes is regularly and constantly measured by some fixed instrument located at the point of delivery of the service. When the maximum demand is so measured, the charge should be for the period for which the bill is normally rendered, in the same manner in which the actual consumption is charged and collected for. A single maximum demand reading should not govern an entire year's bills.

If abuse with reference to the manufacturer's rating of the motor should develop, means for testing such motors and stopping such abuse will be provided.

The rates herein established contemplate the method of charging hereinabove described. The San Joaquin Corporation can accordingly discontinue its present practice of installing meters on strictly flat rate installations and thus effect a very material saving.

7. *Transformers.*

The San Joaquin Corporation requires its consumers to supply transformers in the following classes of cases:

- (1) Under all irrigating pumping contracts.
- (2) In all cases where isolated lighting consumers are to be served, unless it is apparent that more business can be taken on in the near future.
- (3) For all motors and lights used at the oil wells, or by the oil pumping consumers on the regular pumping rates.

A large number of complaints were made in these proceedings against the practice of the San Joaquin Corporation of compelling certain classes of its consumers to supply the transformers. Why consumers of agricultural power or oil well power or certain lighting consumers should be required to supply their own transformers, while consumers of mining power or industrial power or commercial lighting, and most residence lighting consumers, secure their transformers at the expense of the utility, is not clear. That discrimination results from this difference in treatment can not reasonably be denied.

A transformer is an instrumentality necessary to the service rendered by the utility, just as much as its hydroelectric plants, its steam plants, its transmission lines, and its distributing system. As a general rule, no good reason appears why the utility should compel the consumer to supply the transformer, while the utility supplies the production and transmission system and the distribution lines. With the exception of a few of the smaller electric utilities in this State, practically all the electric utilities supply the transformers, except in isolated cases in which the utility is of the opinion that the revenue to be derived from the customer does not justify the utility in supplying the transformer. Even in such cases, however, the proper course would seem to be to ask the consumer to pay such rate or make such guarantee as will protect the utility, without compelling the consumer to pay for one of the instrumentalities needed by the utility to render its service.

Henceforth, the San Joaquin Corporation will be expected to supply and maintain, at its own expense, all transformers necessary in its business. If, in special cases, the investment necessary to serve an intending consumer seems unduly high, application for relief may be made to this Commission, whereupon the Commission will then make an equitable adjustment of the matter.

The rates herein prescribed are established on the assumption that the San Joaquin Corporation will take over, under equitable conditions, all transformers now on its system and heretofore paid for by its consumers. If the utility does not desire to pursue this course, it will be necessary to reduce accordingly the rates herein established.

It is suggested that payment for the existing transformers may be made under uniform rules and regulations by crediting the consumers with a fixed percentage of the fair value of the transformers on the consumer's bills, month by month, until the transformers are fully paid for.

VII.

Service.

1. *Quality of.*

A large number of patrons of the San Joaquin Corporation testified that the corporation's service, particularly prior to 1914, had not been satisfactory. The principal source of complaint was the frequent interruptions of agricultural power service. These interruptions caused considerable annoyance, losses due to the stoppage of motors, and material additional expense due to the more careful and constant attention necessary. While it must be recognized that only a small percentage of the total number of the San Joaquin Corporation's consumers testified in these proceedings, it is also obvious that each interruption of the nature referred to must have affected the service supplied to a considerable number of the corporation's patrons.

Although any interruption of service supplied under the conditions prevailing in the rural territory served by the San Joaquin Corporation is most annoying and to a certain extent undoubtedly deprives a consumer, receiving service under flat rates, of the benefits of the continuous service for which he is paying, the frequency of these interruptions has undoubtedly decreased during the past year, and I feel that at this time there is little cause for complaint in this regard.

The only other serious complaint against the service supplied by the San Joaquin Corporation was directed against the difference between the voltage maintained upon the corporation's supply circuits in East Bakersfield and in Bakersfield. This condition should be rectified at once. The rates herein established contemplate that a uniform standard voltage, phase and frequency will be maintained for each class of service in each community, larger unit or over the entire system.

2. *Meter boxes.*

Considerable complaint was made, particularly from Bakersfield and Fresno, with reference to a rule or regulation adopted by the San Joaquin Corporation in the early part of 1914, applicable whenever an electric lighting service is discontinued, and compelling the owner of the premises, before service will be resumed, to remove the meter box at his own expense from screened porches and other more or less inaccessible places, to some place accessible to the utility's meter readers.

The testimony shows that the average cost of such removal is between \$6.00 and \$8.00. The testimony further shows that up to the early

part of 1914 the San Joaquin Corporation installed its meters in the original locations without any protest whatsoever on its part. In view of this fact, it seems only reasonable that if the San Joaquin Corporation desires to have the meters installed prior to 1914 relocated, it should pay the expense of such relocation. On the other hand, it is entirely reasonable to require that meters installed in the future shall be installed in a location accessible to the corporation's meter readers. The consumer, however, should not be compelled to install the meter box on the outside of his building in such a manner as to mar the building, if any other accessible location is available.

The rates herein established have been determined on the assumption that the San Joaquin Corporation will repay the moneys heretofore reasonably expended by the corporation's consumers in relocating meters under the rule or regulation adopted in 1914. In case of such relocations hereafter, the expense shall be borne by the San Joaquin Corporation.

VIII.

Extensions.

Considerable complaint was made to this Commission with reference to a requirement of the San Joaquin Corporation compelling its intending consumers to advance the funds necessary to construct extensions. Beginning in April, 1913, and continuing to a time subsequent to the first hearings in these proceedings, the San Joaquin Corporation consistently told intending consumers whose service would require an extension, that the corporation was without funds and that the extension would not be made unless the intending consumer advanced the cost thereof. Six per cent interest was paid on the moneys thus advanced. The officials of the San Joaquin Corporation testified in these proceedings that this policy was from the beginning regarded by the corporation merely as a temporary expedient to tide over a period of financial stringency. This stringency was caused principally by the necessity of doing certain expensive construction work within a designated time on the Crane Valley project. Funds which otherwise would have been used to construct extensions to secure increased business were devoted to the Crane Valley project.

Prior to the submission of these proceedings, the San Joaquin Corporation again reverted to its original policy of making all reasonable extensions at its own expense, and the officials of the corporation testified that they hoped that they would now be able to adhere uninterruptedly to this policy.

The general rules applicable to extensions by electric utilities outside of municipalities were established by this Commission in its Decision

No. 2689, in Case No. 683, *supra*. Referring to this question, the Commission said:

"It is not feasible at this time to establish a general rule defining free limits for extensions outside of municipalities. The Commission naturally desires the utility to be as liberal as possible in the construction of extensions, but regard must also be had to the utility's financial condition and the rights of existing consumers. If the parties can not agree, they may submit the matter informally to the Commission or formally as provided by section 36 of the Public Utilities Act."

"The Commission has frequently drawn attention to the fact that it is unreasonable for utilities to urge that each extension constructed at their cost must be profitable in itself. Such a policy would lead to grave results in thwarting the development of this State and can not be permitted by this Commission."

"The Commission's attention has recently been drawn to a number of cases in which utilities which have a monopoly in certain territory have refused to make extensions in cases in which they would have made them had there been competition and under circumstances under which they actually do make extensions in other territory in which competition exists. If this attitude persists, it will become the matter of very serious consideration from the Commission. If a utility adopts such a policy in any part of the territory served by it, it must expect this fact to be taken into consideration if another utility of like kind asks authority to enter the territory under consideration or any other portion of the territory served by the existing utility."

The Commission thereupon adopted its Rule 16, in Case No. 683, which rule will apply to the San Joaquin Corporation. This rule reads as follows:

"**Rule 16.** A water, gas, electric or telephone utility shall make such reasonable extensions in unincorporated territory at its own expense, as it can agree upon with the applicant for service; provided that in any case in which the construction of an extension at the utility's sole expense will in its opinion work an undue hardship upon the utility or its existing consumers, the matter may be submitted to the Commission as provided by section 36 of the Public Utilities Act, unless satisfactorily adjusted by an informal application to the Commission."

The question of extensions within incorporated territory is fully covered by Rule 15 in said decision, reading as follows:

"**Rule 15.** A water, gas, electric or telephone utility which operates under a general franchise authorizing the occupancy of all the streets of a municipality shall make, at its own expense, such street extensions as may be necessary to serve applicants; provided that in any case in which the construction of an extension at the utility's sole cost will in its opinion work an undue hardship

upon the utility or its existing consumers, the matter may be submitted to the Commission as provided by section 36 of the Public Utilities Act, unless satisfactorily adjusted by an informal application to the Commission."

In view of the fact that the San Joaquin Corporation has now reverted to its original policy of making all reasonable extensions at its own expense, it is not necessary to pursue this subject further at this time.

IX.

Rates.

1. *Existing rates.*

The existing rates of the San Joaquin Corporation for each class of service will be stated and considered, in so far as necessary, under the discussions of the various classes of service which will hereinafter be found. Although all the electric rates of the San Joaquin Corporation are at issue herein, complaint was made particularly of the agricultural power rates, the commercial lighting rates and the residence lighting rates.

2. *Value of property.*

(a) *Investment.* This Commission's auditing department and the San Joaquin Corporation both made extensive and detailed audits of the books of the San Joaquin Corporation, and its predecessor corporations, for the purpose of determining the amount of money which has actually been invested in the electric business of the San Joaquin Corporation.

Mr. T. G. Hughes, one of this Commission's assistant auditors, reported that the total sum invested by the San Joaquin Corporation and its predecessors in the corporation's electric business as of December 31, 1914, was the sum of \$9,096,270.75. The following table shows the total investment in the electric business at the end of each year from 1895 to 1914, inclusive, as reported by Mr. Hughes:

TABLE No. IV.

Investment in Electric Property of San Joaquin Light and Power Corporation and Its Predecessors on December 31, of Each Year.

Year	Investment on December 31
1895	\$72,199 65
1896	407,196 36
1897	460,941 44
1898	485,663 58
1899	568,510 49
1900	715,026 52
1901	876,059 59
1902	937,832 04
1903	1,023,702 28
1904	1,177,579 86
1905	1,480,986 45
1906	2,013,685 46
1907	2,163,221 25
1908	2,264,435 14
1909	2,466,838 72
1910	2,865,533 69
1911	5,911,721 15
1912	7,031,119 76
1913	8,233,891 04
1914	9,096,270 75

The following table shows the investment as of June 1, 1915, secured by adding to the investment as of December 31, 1914, the additions and betterments between December 31, 1914, and June 1, 1915, with overhead applicable thereto, together with working capital and stores and supplies:

TABLE No. V.

Investment of San Joaquin Light and Power Corporation in Electric Property as of June 1, 1915, Based on Investment on December 31, 1914, as Reported by Mr. Hughes.

Investment on December 31, 1914, as reported by Mr. Hughes	\$9,096,270 75
Additions and betterments to June 1, 1915	347,302 15
Overhead added to additions and betterments	5,180 44
Working capital	121,000 00
Stores and supplies	282,338 50
Total investment on June 1, 1915	\$9,852,091 84

It appears from the San Joaquin Corporation's Exhibit No. 3-L that a considerable portion of the additions and betterments between December 31, 1914, and June 1, 1915, are as yet nonoperative.

The San Joaquin Corporation reports in its Exhibit No. 3-L a total investment for its electric properties as of December 31, 1914, amounting to \$9,055,170.03. This investment is \$41,100.72 less than the investment reported as of December 31, 1914, by Mr. Hughes. Mr. Hughes testified that the difference is principally due to the fact that he included the investment in the Kern Canyon flume of the Power

Development Company, while the San Joaquin Corporation wrote off this investment for the reason that it is no longer useful and has been abandoned.

The following table shows the investment of the San Joaquin Corporation in its electric properties as of June 1, 1915, as reported by the San Joaquin Corporation in its Exhibit No. 3-L:

TABLE No. VI.

Investment of San Joaquin Light and Power Corporation in Electric Property as of June 1, 1915, as Reported by Corporation.

Total operative capital investment to December 31, 1914-----	\$9,055,170 03
Total jobs closed January 1 to June 1, 1915-----	34,187 59
Total open jobs and estimates—operative property-----	97,832 23
<hr/>	
Total operative property-----	\$9,187,189 85
Total open jobs estimates—nonoperative property-----	\$207,025 00
Total developments—nonoperative property-----	19,631 98
Purchase of Fresno Gas & Electric Company-----	16,797 23
<hr/>	
Total nonoperative property -----	243,454 21
<hr/>	
Total capital investment, operative and nonoperative, June 1, 1915 -----	\$9,430,644 06

By adding to the foregoing total the sums allowed by this Commission's gas and electric department for working capital and stores and supplies, a total of \$9,833,982.56 is secured, as representing the investment in the San Joaquin Corporation's electric properties, operative and nonoperative on June 1, 1915.

(b) *Estimated reproduction cost new.* The San Joaquin Corporation presented an estimate of the cost of reproducing new the corporation's tangible electric properties as of June 1, 1915. This estimate was prepared on the historical method. To the estimate of J. G. White & Company as of May 31, 1912, totalling \$7,122,807.00, there were added the actual expenditures for additions and betterments from May 31, 1912, to June 1, 1915, amounting to \$2,865,914.01, making a total as of June 1, 1915, of \$9,988,721.01.

This Commission's gas and electrical department likewise presented an estimate of the cost to reproduce the San Joaquin Corporation's tangible electric properties as of June 1, 1915. This estimate, which did not include the corporation's lands, amounted to \$9,484,096.09. By adding to this sum \$256,287.00, being the estimate of Mr. W. M. Wells, this Commission's real estate expert, of the present value of the corporation's lands and other real property as of June 1, 1915, as shown by Railroad Commission's Exhibit No. 3, and the sum of \$121,000.00, for working capital, a total of \$9,861,383.09 is secured. The two chief differences in the estimates as presented by the San

Joaquin Corporation and by Mr. R. M. Vaughan of this Commission's gas and electrical department, are found in different allowances for overhead percentages and for stores and supplies. The corporation used an allowance of 16.8 per cent for overhead, while Mr. Vaughan used 15.394 per cent. The corporation also claims an allowance of \$100,000.00 for stores and supplies in excess of the sum used by Mr. Vaughan.

Mr. Arthur F. Bridge, of this Commission's gas and electrical department, testified that in his opinion the allowance used by the San Joaquin Corporation and by Mr. Vaughan for overhead percentages to cover the item of administration and superintendence, being 5.266 per cent, is too high. Testifying from the experience of the San Joaquin Corporation itself and of similar utilities in other sections of the State, he stated that an allowance of 2.5 per cent is sufficient for this item. He accordingly prepared an historical reproduction estimate based on an allowance of 2.5 per cent for the item of administration and superintendence. Mr. Bridge's total, comparable with the corporation's total of \$9,988,721.01, and Mr. Vaughan's total of \$9,861,383.09, is the sum of \$9,601,119.94.

The estimates of reproduction cost new thus far referred to herein are all estimates applicable solely to the San Joaquin Corporation's tangible electric properties. The corporation's claims for additions under the head of intangible values will be discussed hereinafter.

(c) *Estimated cost of reproduction new less depreciation.* The San Joaquin Corporation presented no estimate of the cost to reproduce new less depreciation.

Mr. Vaughan reported that the estimated depreciated reproduction value of the San Joaquin Corporation's tangible electric properties as of June 1, 1915, is the sum of \$7,608,993.36.

Mr. Bridge reported that on the basis of the lives of the property testified to by Mr. J. M. Buswell, of the San Joaquin Corporation, which lives assumed the effects of obsolescence and inadequacy, the depreciated reproduction cost of the property plus the appreciation in land values reported by Mr. Wells, is \$8,099,212.00, and that based on the lives of the property used by J. G. White & Company, the estimated depreciated reproduction cost is \$8,174,303.00. These estimates are based on the straight line method of depreciation frequently used by engineers.

The testimony shows that, with the exceptions hereinbefore indicated, the electric properties of the San Joaquin Corporation are being efficiently maintained and operated.

(d) *Franchises.* Mr. Wells, in Railroad Commission's Exhibit No. 3, reported that the San Joaquin Corporation and its predecessors

paid for the corporation's franchises the total sum of \$4,761.60. The following table shows the totals of the amounts expended:

TABLE No. VII.

Payments by San Joaquin Light and Power Corporation and Its Predecessors for Their Franchises With Incidental Expenses.

	Payments to counties	Incidental expenses	Total cost
Kern County—San Joaquin Light and Power Corporation	\$2,000 00	\$68 20	\$2,068 20
Kings County—Paid to H. G. Lacey.....	1,500 00		1,500 00
Madera County	100 00	62 25	162 25
Merced County	150 00	133 75	283 75
Tulare County	200 00	60 50	260 50
Totals	\$3,950 00	*\$324 70	\$4,274 70
Fresno County—Franchise purchased with other property. Cost estimated (by Kenny).....	300 00	*24 60	324 60
Kern County—Franchise purchased with other property, West Side Electric Co., cost estimated by Kenny.....	150 00	*12 30	162 30
Totals	\$4,400 00	*\$361 60	\$4,761 60

*Incidental expenses equals 8.2 per cent of payments to counties.

Exhibit No. 16 of the San Joaquin Corporation shows costs identical with those reported by Mr. Wells.

The San Joaquin Corporation does not in these proceedings claim any allowance for franchises in excess of the cost and incidental expenses thereof, as reported by the corporation and Mr. Wells.

(e) *Going concern value.* In its Exhibit No. 19, the San Joaquin Corporation claims a minimum of \$1,651,021.00 as representing the corporation's going concern value. This conclusion is reached on the assumption that the corporation has a going concern value at least equivalent to the cost of developing its business. In preparing this exhibit, the San Joaquin Corporation based its conclusions on the history of eight of the corporation's districts for the sale of electric energy. In each of these districts the corporation allowed an 8 per cent return on the investment, together with the operating expenses actually shown on the corporation's books and an item for depreciation based upon the 4 per cent sinking fund method. Each year the accumulated deficits of preceding years were added to the investment until all the deficits were wiped out. No allowance was made for the surplus of later years to counterbalance the deficits of earlier years. The accumulated deficits of each of the eight districts up to the time the district showed a surplus were added together and were assumed to represent the cost of developing the business in these districts as of that time. The development cost thus ascertained for the number of consumers, the connected load, and the investment as of that time was

then applied to the corporation's present number of consumers, present connected load and present investment, to ascertain what it cost the corporation, on these bases, to develop its present business. The figure thus secured, being \$1,651,021.00, is urged by the corporation to represent its minimum going concern value.

The following two tables show the development of the business of the San Joaquin Corporation and its predecessors, on the theory hereinbefore set forth, from 1896 to December 31, 1914, as reported by San Joaquin Corporation in its Exhibit No. 19:

TABLE No. VIII.

General summary, development of electric business of San Joaquin Light and Power Corporation and predecessors, from 1896 to December 31, 1905.

(Table on page 6 of Corporation's Exhibit No. 19.)

Districts	1896	1897	1898	1899	1900	1901	1902	1903	1904	1905
Bakersfield -----	\$4,696 76	\$22,852 71	\$20,646 21	\$13,097 20	\$8,495 81	\$15,958 08	\$19,883 90	\$17,444 60	\$13,800 60	\$18,007 84
Copper Mine -----										875 29
Corcoran -----										
Crane Valley -----										
Fresno -----	8,115 25	14,274 76	19,753 70	6,871 85	7,769 13	505 19	25,735 10	36,316 05	53,496 11	50,000 40
Kings River -----										
Lemoore -----										
Los Banos -----										
Madera -----										
McFarland -----										
Merced -----										
Midway -----										
Reedley -----										835 71
Selma -----										
Wholesale power -----										
Total, districts under development	\$13,112 01	\$37,127 47	\$49,399 91	\$20,569 05	\$7,769 13					
Total, districts developed					8,495 81	\$16,463 27	\$45,619 00	\$53,760 65	\$67,296 71	\$69,779 24
Balance	\$13,112 01	\$37,127 47	\$49,399 91	\$20,569 05	\$7,26 68	\$16,463 27	\$45,619 00	\$53,760 65	\$67,296 71	\$69,779 24

TABLE No. IX.
General summary, development of electric business of San Joaquin Light and Power Corporation and predecessors, from 1906 to December 31, 1914.
 (Table on page 7 of Corporation's Exhibit No. 19.)

Districts	1906	1907	1908	1909	1910	1911	1912	1913	1914	Grand total
Bakersfield	\$19,881 86	\$29,046 29	\$44,778 16	\$46,663 85	\$81,009 08	\$29,261 20	\$2,625 36	\$27,735 15	\$25,009 47	\$221,298 41
Copper Mine	1,108 11	8 01	1,253 92	2,109 30	808 16	715 96	2,867 64	2,320 95	1,181 15	922 91
Corcoran	3,216 44	4,221 28	3,607 38	2,307 46	6,948 26	9,303 86	15,026 15	16,777 69	14,146 66	75,675 18
Crane Valley				8 57	11,545 60	1,431 86	10,196 98	13,274 40	130 88	39,317 39
Fresno	65,462 07	40,667 89	61,979 75	81,888 78	96,361 51	76,828 61	50,757 53	35,475 77	72,161 30	690,911 40
Kerman		2,330 88	2,084 82	2,345 04	2,215 02	3,572 25	4,910 00	5,115 44	5,404 41	27,976 36
Kings River						435 42	1,170 54	997 74	2,428 22	1,820 00
Lemoore				1,450 36	1,852 54	110 36	553 40	1,171 08	658 53	808 93
Los Banos						156 13	21,909 41	28,118 72	29,552 17	79,224 17
Madera	1,287 67	1,866 63	3,954 29	6,999 45	8,008 63	3,836 61	1,124 40	822 68	7,904 00	31,909 40
McFarland							2,512 24	4,382 73	3,710 87	3,184 10
Merced	6,290 13	6,955 87	10,097 45	5,670 69	364 39	11,616 74	12,711 72	16,165 62	14,556 31	84,128 92
Midway	*	*	*	*	*	4,332 02	1,589 53	15,885 75	36,888 63	58,675 93
Reedley	7,475 19	8,245 86	4,905 32	4,559 61	3,587 07	11,943 63	13,180 21	10,138 46	2,214 01	65,729 36
Selma	1,388 18	468 81	2,082 08	5,020 28	6,381 49	665 12	4,542 34	8,288 54	2,215 84	1,364 71
Wholesale power						8,223 90	13,074 57	23,048 01	35,456 82	79,883 33
Total, districts under development	\$16,981 76	\$21,762 89	\$20,154 47	\$14,876 37	\$13,114 74	\$38,007 92	\$81,962 87	\$122,035 60	\$97,327 65	\$554,201 84
Total, districts developed	89,127 89	72,057 63	114,948 20	144,132 02	212,566 44	124,338 75	76,769 15	87,683 96	156,121 62	1,339,360 34
Net balance	\$72,146 13	\$50,294 74	\$94,793 73	\$129,255 65	\$199,451 70	\$86,530 83	\$5,193 72	\$31,351 64	\$58,793 97	\$785,158 50

*Incomplete.

It appears from the foregoing two tables that the San Joaquin Corporation and its predecessors, up to December 31, 1914, earned \$785,158.50 in excess of operating expenses, an adequate allowance for depreciation and an 8 per cent return on all moneys invested and also on all accumulated deficits.

The following table shows the conclusions of the San Joaquin Corporation with reference to the cost of developing its business, on the theory hereinbefore indicated, with reference to the eight districts which it used for the purpose of its computations:

TABLE No. X.
Cost of developing electric business of San Joaquin Light and Power Corporation in eight districts.
 (Table on page 5 of San Joaquin Corporation's Exhibit No. 19.)

District	Development Period		Development cost	End of development period			Gross earnings during development period	Unit cost per		Per cent of	
	Began year	Ended year		Investment	Number consumers	Connected load, k.w.		Consumer	Kilowatt	Investment	Gross earnings
Bakersfield	1897	1899	\$71,192 88	\$68,888 03	473	950.00	\$150 51	\$74 94	103.34	148.01	
Corcoran	1906	*	75,615 18	153,622 32	374	1,658.70	202 26	45 60	49.24	53.10	
Fresno	1896	1900	56,784 69	95,774 87	1,187	1,026.82	47 84	55 30	59.29	28.04	
Kerman	1907	*	27,976 36	13,676 51	76	336.30	368 11	83 18	204.55	96.58	
Los Banos	1911	*	79,224 17	153,941 40	646	1,053.00	122 64	75 23	51.46	87.42	
McFarland	1912	1913	6,894 97	31,970 49	265	1,338.34	26 02	5 15	21.56	34.15	
Merced	1946	*	84,428 92	239,699 15	1,196	2,236.18	70 59	37 75	35.22	22.67	
Reedley	1906	*	65,729 36	199,780 14	1,421	2,652.32	46 25	24 78	32.90	18.32	
Totals			\$467,876 53	\$957,352 91	5,638	11,251.66	\$82 98	\$41 58	48.87	37.01	

*Not completed.

It will be observed from the foregoing table that the corporation reports that the cost of developing its business has been \$82.98 per consumer, \$41.58 per kilowatt of connected load and 48.87 per cent of the investment in distributing system. The corporation applies these figures to its business on December 31, 1914, with the following results:

19,623 consumers at \$82.98-----	\$1,628,317 00
44,194.14 K.W. connected load at \$41.58-----	1,837,592 00
\$3,042,080.53 investment in distributing system at 48.87 per cent -----	1,487,153 00
Average -----	1,651,021 00

In its Exhibit No. 39, the San Joaquin Corporation presented a somewhat similar statement based on the largest deficit in any year of the operations of the Bakersfield companies, the San Joaquin Electric Company and the Merced Falls Gas and Electric Company. The corporation reports that the greatest accumulative deficit of the Bakersfield companies occurred in 1899, and amounted to \$37,989.22; that the greatest accumulative deficit of the San Joaquin Electric Company occurred in 1901, and amounted to \$70,061.74; and that the greatest accumulative deficit of Merced Falls Gas and Electric Company occurred in 1910, and amounted to \$79,549.11. By adding these sums, the corporation reports, on the greatest accumulative deficit theory, a development cost by companies of \$187,600.07.

Mr. A. F. Bridge, of this Commission's gas and electrical department, analyzed these exhibits and criticised them on the ground that the rate of return used by the corporation, being 8 per cent, was in excess of the cost of money, which was shown to be 6.12 per cent; that the rate of interest used in computing the depreciation annuity, being 4 per cent, was too small; that the losses in the individual districts should be amortized out of subsequent surplus earnings; that the abandoned equipment should not all have been amortized over a single five-year period; that the amounts charged to depreciation annuity during the first years of operation should not have exceeded the cost of actual replacements; and that the item of amortization of bond discount should properly be included in the rate of return and not separately considered in addition to the return of 8 per cent per annum.

I do not consider it necessary at this time to pass upon any of these objections, other than the fact that the corporation has made no allowance for the surplus of later years as amortizing the deficits of earlier years. Table No. IX shows, accepting the corporation's own figures, that the electric properties of the San Joaquin Corporation and its predecessors have paid all operating expenses, earned adequate depreciation annuities, amortized a considerable amount of equipment in the short period of five years, earned 8 per cent per annum on every

dollar invested and also on every dollar of accumulative deficit, completely wiped out every cent of early deficits, and, in addition to all these sums, have earned for the corporation a surplus of \$785,158.50.

This situation squarely raises the question whether, when the earnings of later years have entirely wiped out the deficits of earlier years, the utility may claim, in a rate case, any allowance for going concern value to be added to the allowances properly to be made for its tangible properties.

If consideration is given primarily to the actual investment in the property as the basis on which a rate of return is calculated, there is, of course, no ground whatsoever for any allowance in such a case, for the reason that the utility has earned a return on every dollar invested and has wiped out every dollar of deficit. On the other hand, if consideration is given primarily to the reproduction cost new theory, this would appear to be another case in which this theory produces results most unfair and unjust to the public. If the rate payers have paid to the utility a revenue sufficient to wipe out all the deficits incurred during the early years of operation, in addition to a return of 8 per cent on all accumulated deficits as well as on the money actually invested, what reason is there in logic or in equity why the utility should demand a return in excess of the amount properly allowable for its tangible properties? If the utilities are successful in such claims, they will compel the rate payer to pay twice under the same head, first to wipe out the deficit of the early years and then to continue paying a return on the amounts represented by such deficits before they were wiped out. This would be a heavy price to pay to vindicate the reproduction cost new theory.

In the *Minnesota Rate Case*, 230 U. S. 352, the Supreme Court of the United States drew attention to the absurdity and injustice of the reproduction cost new theory as applied to the lands of railroad companies.

In *Des Moines Gas Company vs. City of Des Moines*, 238 U. S. 153, the same august tribunal drew attention to the absurdity and injustice of this theory as applied to the question of pavement over mains.

In the same case, as I shall now show, the Supreme Court, likewise discredited the reproduction cost new theory as applied to going concern value. Hence this theory, so ardently championed by many utilities, has recently been thrice discredited by the Supreme Court.

In the *Des Moines Gas Case*, the gas company filed a bill in the District Court of the United States for the Southern District of Iowa to enjoin an ordinance of the city of Des Moines, establishing a rate of 90 cents per 1,000 cubic feet to be charged for gas in Des Moines. The bill was dismissed without prejudice (199 Fed. 204). On appeal to the Supreme Court of the United States, one of the two main questions at

issue was whether the master below had made a sufficient allowance for "going concern value." Mr. Justice Day found that the master had been inclined to make an allowance of \$300,000.00 for "going value." but that on reading the decision of the Supreme Court in *Cedar Rapids Gas Light Company vs. Cedar Rapids*, 223 U. S. 655, he had eliminated this item. The master, however, valued the plant as one "in successful operation," which words he may be assumed to have used as distinguished from the mere salvage value of the separate units of the plant.

In sustaining this valuation, Mr. Justice Day said:

"Included in going value as usually reckoned is the investment necessary to organizing and establishing the business which is not embraced in the value of its actual physical property. In this case, what may be called the inception cost of the enterprise entering into the establishing of a going concern had long since been incurred. The present company and its predecessors had long carried on business in the city of Des Moines, under other ordinances, and at higher rates than the ordinance in question established. For aught that appears in this record, these expenses may have been already compensated in rates charged and collected under former ordinances. As we have said, every presumption is in favor of the legitimate exercise of the rate-making power, and it is not to be presumed, without proof, that a company is under the necessity of making up losses and expenditures incidental to the experimental stage of its business."

I desire to draw attention particularly to the sentence reading:

"For aught that appears in this record, these expenses may have been already compensated in rates charged and collected under former ordinances."

In these words, the Supreme Court clearly intimates that if the expense of organizing and establishing the business has already been made good to the utility out of later rates, no additional allowance for "going concern value" may properly be made in a rate case.

Continuing on the same subject, Mr. Justice Day said:

"As pointed out in the *Cedar Rapids Case*, if return is to be regarded beyond that compensation which a public service corporation is entitled to earn upon the fair value of its property, the right to regulate is of no moment, and income to which the corporation is not entitled would become the basis of valuation in determining the rights of the public. When, as here, a long established and successful plant of this character is valued for rate-making purposes, and the value of the property fixed as the master certifies upon the basis of a plant in successful operation, and overhead charges have been allowed for the items and in the sums already stated, it can not be said, in view of the facts in this case, that the element of going value has not been given the consideration it deserves, and the appellant's contention in this behalf is not sustained."

I construe this decision to mean that if a plant has been valued as "in successful operation," as distinguished from a valuation of the scrap value of its component parts, and if rates have been sufficient to reimburse the utility for the cost of organizing and establishing the business no additional allowance need be made for "going concern value."

In view of this conclusive expression by the tribunal which alone can finally decide questions of confiscation of property arising under the Federal Constitution, I deem it sufficient merely to refer to decisions of other courts establishing the same principle in rate cases:

Cumberland Telephone and Telegraph Company vs. City of Louisville, 187 Fed. 637, 646;

Spring Valley Waterworks vs. City and County of San Francisco, 192 Fed. 137, 167;

Montana, Wyoming and Southern Railroad Company vs. Board of Railroad Commissioners of Montana, 198 Fed. 991;

Contra Costa Water Company vs. City of Oakland, 159 Cal. 323, 113 Pac. 668;

Kings County Lighting Company vs. Willcox, 210 N. Y. 479, 489.

Among the decisions of state railroad and public service commissions to the same effect are: *Municipal League of Phoenix vs. Pacific Gas and Electric Company* (Arizona Corporation Commission), 21 A. T. & T. Co. Com. L. 699; *Application of Macon Railway and Light Company* (Georgia Railroad Commission), 29 A. T. & T. Co. Com. L. 1072; *Union City vs. Union Heat, Light and Power Company* (Indiana Public Service Commission), 5 Rate Research, 69; *Commercial Club vs. Missouri Public Utilities Company* (Missouri Public Service Commission), P. U. R. 1915 C., 1017; *City of Ely vs. Ely Light and Power Company* (Nevada Public Service Commission), 24 A. T. & T. Co. Com. L. 578; *Petitions of Grafton County Electric Light and Power Company* (New Hampshire Public Service Commission), 4 N. H. P. S. Com. Rep. 171; *Mayhew vs. Kings County Lighting Company* (New York Public Service Commission, First District), 2 P. S. C. Rep., 1st D. (N. Y.) 659; *Queens Borough Gas and Electric Rates* (New York Public Service Commission, First District), 2 P. S. C. Rep., 1st D. (N. Y.) 544; *Fuhrmann vs. Cataract Power and Conduit Company* (New York Public Service Commission, Second District), 3 P. S. C. Rep., 2d D. (N. Y.) 656; *Fuhrmann vs. Buffalo General Electric Company* (New York Public Service Commission, Second District), 18 A. T. & T. Co. Com. L. 1094.

Decisions by the New Jersey commission and courts and possibly some others, apparently taking a contrary view, are contrary to the overwhelming weight of authority and must be disregarded.

In view of the fact that the rate payers have already paid to San Joaquin Corporation and its predecessors revenues sufficient to pay all

operating expenses, an adequate depreciation fund and an 8 per cent return on the investment and on all accumulated deficits, in addition to wiping out entirely all deficits, no allowance will be made herein for going concern value in addition to the fair value of the corporation's tangible property. The tangible property, however, is being valued as property in successful operation by a going and successful utility.

It must not be understood from this decision that where a utility's deficits have not been wiped out, the amount of such deficits must necessarily be added as "going value" or otherwise to the amount reasonably allowable for the tangible property. Otherwise, the most poorly operated property might be the most valuable in a rate case. All such cases will be disposed of on their respective facts as they arise.

(f). *Water rights.* The San Joaquin Corporation claims in these proceedings the ownership of the following water rights:

(1) The right to withhold in the corporation's reservoir in Crane Valley the waters of the North Fork of the San Joaquin River to the extent of about 51,000 acre-feet, and to divert this water from the reservoir, together with the natural flow of said North Fork and its tributaries for the purpose of generating power at three power houses, the water being returned to the San Joaquin River after being so used.

(2) The right to divert and use 50 cubic feet of water from the two upper branches of the Tule River, this water being returned to the Tule River at the junction of said branches with the main Tule River in Tulare County.

(3) The right to divert from the Kern River water sufficient to generate at the present time 1,350 K.W. of electric energy and to increase said diversion sufficiently to generate 7,500 K.W. of electric energy, this water being returned to the Kern River after being used in the corporation's power house.

(4) The right to divert from the Merced River immediately above Merced Falls a sufficient quantity of water to generate approximately 1,000 K.W. of electric energy, this water being returned to the Merced River immediately below the power house.

The San Joaquin Corporation now has installed on the North Fork of the San Joaquin River two power houses, known as Power House No. 1 (San Joaquin Power House) and Power House No. 3, having an alleged combined capacity of 18,000 kilowatts at unity power factor. The corporation has done preliminary work in the construction of an additional power house, to be known as Power House No. 2, which will have a capacity of 2,000 kilowatts. The installed capacity on the Tule River is approximately 6,000 kilowatts. The installed capacity on the Kern River is approximately 1,350 kilowatts. The San Joaquin Corporation claims that it will hereafter increase this installation to a 7,500 kilowatt plant. The installed capacity at Merced Falls is about

500 kilowatts. The corporation states that it will hereafter increase this capacity to about 1,000 kilowatts.

The original cost of all of said water rights, as shown by the books of the San Joaquin Corporation and its predecessors, is reported by Mr. Wells in Railroad Commission's Exhibit No. 3, to have been not to exceed the sum of \$50,075.78. The total sum charged on the books of the San Joaquin Corporation and its predecessors for "rights of way, water rights and franchises" is the sum of \$67,034.17. By subtracting from this amount the sum of \$12,683.69, being the cost of rights of way as estimated by E. B. Walthall, assistant general manager of the San Joaquin Corporation, and the sum of \$4,274.70, being the agreed expenditure on account of franchises, there remains the sum of \$50,075.78 hereinbefore stated. Mr. Wells reports that the total identified cost of water rights alone and of water rights with land is about \$7,570.00. His report shows that the sum of \$50,075.78 includes payments for water rights, payments for water rights with land, costs of easements, and legal and traveling expenses in connection with the acquisition and protection of the corporation's water rights. All expenditures in connection with water rights are included in the total of \$9,096,270.75, reported by Mr. Hughes as being the total investment in the San Joaquin Corporation's electric properties on December 31, 1914.

The San Joaquin Corporation has presented claims for water right values on two distinct theories. With reference to the rights on the North Fork of the San Joaquin River, the corporation has presented claims based on a comparison of the cost of generating electric energy by hydroelectric power and by steam power. With reference to the rights on the North Fork of the San Joaquin River, the corporation has also presented a claim based on the assumed detriment to lower riparian lands on the San Joaquin River down to its confluence with the Merced River, caused by the storage of water in the Crane Valley dam at seasons of the year during which the water would otherwise flow down the San Joaquin River and be available for the irrigation of riparian lands. Each of these claims will be separately considered.

Comparison with cost of generation by steam.

Mr. C. E. Grunsky presented as San Joaquin Corporation's Exhibit No. 25, an estimate of the cost of generating electric energy by means of the corporation's present hydroelectric production system as compared with the cost of generating an equivalent amount of electric energy in an assumed main plant and auxiliary plant operated by steam generated from oil.

Referring to the hydroelectric system, Mr. Grunsky assumed the installation of Power House No. 2, which is to be located on the North Fork of the San Joaquin River with a capacity of 2,000 kilowatts. Adding this capacity to the present installed capacity of the San

Joaquin Corporation's hydroelectric system, Mr. Grunsky reached a total of 27,350 kilowatts installed capacity, which he used in his computations with reference to the corporation's hydroelectric system. The output capacity of Mr. Grunsky's substitutional all-steam plant was taken to be 31,500 kilowatts, of which 26,500 kilowatts would be installed at Bakersfield, where oil can be had at a low cost, and 5,000 kilowatts at Fresno, as a stand-by.

Mr. Grunsky's conclusion is that with oil at 53.2 cents per barrel at Bakersfield, the total annual cost of operation plus interest and depreciation for the substitutional all-steam plant would be \$578,736.00, while the total annual cost of operation plus interest and depreciation for an equivalent amount of electric energy generated by the San Joaquin Corporation's present hydroelectric system, assuming that proposed Power House No. 2 has been completed and is in service, would be \$637,912.00. It thus appears on Mr. Grunsky's own figures that the annual expense in connection with the San Joaquin Corporation's hydroelectric system would be \$59,176.00 in excess of the expense of the assumed substitutional all-steam plant. If this sum is capitalized at 8 per cent, it will thus appear that the San Joaquin Corporation's hydroelectric system when Power House No. 2 on the North Fork of the San Joaquin River has been completed and is in operation will have a negative value of \$739,700.00 when oil costs 53.2 cents per barrel at Bakersfield. The prevailing price of oil at Bakersfield has been approximately 50 cents per barrel. Mr. Grunsky estimates that the annual cost of operating his substitutional all-steam plant, with auxiliary, will increase \$5,667.00 for each one cent increase in the price per barrel of oil at Bakersfield. He reaches the following conclusion with reference to the relative cost of operating the San Joaquin Corporation's hydroelectric system and the assumed substitutional all-steam systems, with oil at varying prices per barrel at Bakersfield:

TABLE No. XI.

Relative Cost of Operating Hydroelectric System and Substitutional Steam System With Varying Prices of Oil at Bakersfield, as Computed by C. E. Grunsky.

Price of oil	Operating cost plus 8 per cent interest and depreciation			
	Hydroelectric plant --		All-steam plant--	
	Total annual	Per kilo-watt hour	Total annual	Per kilo-watt hour
Oil at 50 cents per barrel.....	\$633,624	.00560	\$560,602	\$.00495
Oil at 53.2 cents per barrel.....	637,912	.00562	578,736	.00510
Oil at 55 cents per barrel.....	640,324	.00565	588,937	.00519
Oil at 60 cents per barrel.....	647,024	.00571	617,272	.00544
Oil at 65 cents per barrel.....	653,724	.00576	645,607	.00569
Oil at 67 cents per barrel.....	-----	.00578	-----	.00579
Oil at 70 cents per barrel.....	660,424	.00582	673,942	.00594
Oil at 75 cents per barrel.....	667,124	.00588	702,277	.00619

Mr. Grunsky concludes that with each advance of one cent per barrel in the price of oil at Bakersfield above 67 cents, there would be an advantage in favor of the hydroelectric plant of \$4,327.00 per annum. In making his comparison, Mr. Grunsky confined himself to production costs and did not consider transmission costs, for the reason that he concluded that transmission costs would be substantially the same whether the power be generated by water in the mountains or by an all-steam plant at Bakersfield, with an auxiliary at Fresno.

Mr. Grunsky concludes that the negative value of the San Joaquin Corporation's hydroelectric system at prevailing prices for oil at Bakersfield should not be taken as reflecting upon the business judgment of those who have initiated and carried forward the enterprise of developing the water powers of the San Joaquin, Kern, and Tule rivers. He is of the opinion that no deduction should be made from the value of the San Joaquin Corporation's physical properties, by reason of the fact that under existing conditions the corporation's hydroelectric system shows a negative value as contrasted with the possibility of generating an equivalent amount of electric energy by steam.

Mr. G. R. Kenny, statistician of the San Joaquin Corporation, presented as corporation's Exhibit No. 26, an estimate of the value of two of the corporation's water rights, singly and consolidated, on the comparative steam plant theory but on assumptions different from those used by Mr. Grunsky. Mr. Kenny confined his computations to the water rights in connection with the North Fork of the San Joaquin River and the Kern River, leaving out of consideration the Tule River and the Merced Falls developments. He differed further from Mr. Grunsky in that he assumed an installation of 7,500 kilowatts on the Kern River, whereas the present installation, used by Mr. Grunsky, is only 1,350 kilowatts. Mr. Kenny assumed a substitutional steam plant with a capacity of 25,000 kilowatts, located at Bakersfield, with a reserve steam plant of 5,000 kilowatts located at Fresno. Mr. Kenny's conclusions with reference to the value of these two water rights of the San Joaquin Corporation, singly and combined, on the bases used by him, appear in the following table:

TABLE No. XII.

Water Right Values of North Fork and Kern Canyon Developments at Varying Prices of Oil at Bakersfield, Computed by Mr. G. R. Kenny.

Price of oil	North Fork	Kern Canyon	Total	Combination
50 cents -----	\$5,689 75	\$1,057,210 37	\$1,062,900 12	\$1,067,335 25
55 cents -----	180,663 50	1,170,909 12	1,351,572 62	1,374,216 25
60 cents -----	355,637 25	1,284,607 87	1,640,245 12	1,681,097 25
65 cents -----	530,611 00	1,398,306 62	1,928,917 62	1,987,978 25
70 cents -----	705,584 75	1,512,005 37	2,217,590 12	2,294,859 25
75 cents -----	880,558 50	1,625,704 12	2,506,262 62	2,601,740 25

It will be observed that Mr. Grunsky and Mr. Kenny both used the substitutional steam plant method, but that one engineer, using this method, reports a large affirmative value for the corporation's water rights, while the other using the same method, reports a large negative value. As going to the reliability of this method of ascertaining the value of water rights for the generation of hydroelectric energy, the following table will be interesting. The deficits shown in Mr. Grunsky's report are capitalized at 8 per cent per annum, in order to make his conclusions comparable with those of Mr. Kenny:

TABLE No. XIII.

Comparative Conclusions of Grunsky and Kenny With Reference to Value of Water Rights of San Joaquin Corporation, on Comparative Steam Method.

Price of oil	Combined developments		Difference
	Kenny	Grunsky	
50 cents per barrel.....	+ \$1,067,335 25	— \$912,775 00	\$1,980,110 25
55 cents per barrel.....	+ 1,374,216 25	— 642,337 50	2,016,553 75
60 cents per barrel.....	+ 1,681,097 25	— 371,900 00	2,052,997 25
65 cents per barrel.....	+ 1,987,978 25	— 101,462 50	2,089,440 75
70 cents per barrel.....	+ 2,294,859 25	+ 168,978 00	2,125,884 25
75 cents per barrel.....	+ 2,601,740 25	+ 439,412 50	2,162,327 75

In the foregoing computation the sign + means affirmative value, and the sign — means negative value.

It will be unnecessary for me to say that any theory which produces such strikingly dissimilar results, is open to the most serious question. If it were necessary to do so, attention might also be drawn to the unreliability of a theory which results in such varying water right values, shifting month by month and year by year with the varying prices of fuel oil and making the continuance of a stable rate base impossible.

Attention should here be drawn to the fact that the cost of production of hydroelectric energy assumed by Mr. Kenny in the foregoing computations is far less than the cost of producing hydroelectric energy assumed by the corporation in its cost of service computations as the basis for the establishment of rates in these proceedings. If it is fair to use a far lower cost of service in determining so-called water right values where the comparative plant theory is used, it would seem unfair to charge the public with any greater cost of producing power, when the cost of service computations on which rates are to be based are made. Mr. Kenny's estimate of the annual cost of production and transmission from the combined North Fork and Kern developments is \$646,036.44. On the other hand, the utility claims that the actual cost of service for the comparable items, to be used by this Commission in establishing rates, is \$882,102.41. The following table shows a comparison of the

cost of service estimates as presented by the San Joaquin Corporation in its Exhibit No. 27, and in its water right and comparative steam plant computations shown in its Exhibit No. 26:

TABLE No. XIV.

Comparative Costs of Service Claimed by San Joaquin Light and Power Corporation as Between Cost of Service for Establishing Rates and Cost of Service for Establishing Water Right Values.

Estimated production and transmission cost, under present conditions, as shown by corporation's Exhibit No. 27 -----	\$882,102 41
Estimated cost of combined hydroelectric developments, as shown by corporation's Exhibit No. 26 -----	646,036 44
Comparative substitutional steam plant cost, as shown by corporation's Exhibit No. 26 -----	731,423 26
Excessive present cost over steam cost -----	150,679 15
Excessive present cost over combination hydroelectric cost -----	236,065 97

The foregoing estimates of cost are based upon the present demand and output and can therefore be considered as directly comparable. From the foregoing table it appears that the present cost of service claimed by the corporation in its Exhibit No. 27, as the basis for establishing rates in these proceedings, is \$150,679.15 in excess of the substitutional steam plant referred to in the corporation's Exhibit No. 26, and \$236,065.97 in excess of the combined hydroelectric plants likewise referred to in the corporation's Exhibit No. 26. In other words, comparing Exhibit No. 26 of San Joaquin Light and Power Corporation with Exhibit No. 27, it would appear that the present installation of the corporation is extremely uneconomical. Capitalizing the excess cost, as claimed, of the present system over the cost of a substitutional steam plant at 8 per cent, it would appear that the present system has a negative value of \$1,883,489.00 when the cost of fuel at Bakersfield is 50 cents per barrel. This value will remain negative, on this basis, even if the price of oil should be increased to 75 cents per barrel.

As already indicated, Mr. Kenny assumed the construction and operation of two hydroelectric plants which are not now in existence, one a 2,000 kilowatt plant, to be located on the North Fork of the San Joaquin River, and the other a 7,500 kilowatt plant, to be installed on the Kern River in lieu of the present 1,350 kilowatt plant. The importance of this one element in the problem is shown by the fact that with oil at 50 cents per barrel at Bakersfield, the present development on the Kern River Canyon would show, under Mr. Kenny's figures, a value for water rights of only \$151,191.50, as contrasted with the figure of \$1,057,210.37 appearing in Table No. XII and based on an assumed development of 7,500 kilowatts. This 7,500 kilowatt plant is not in existence, and there is no definite evidence in the record as to when it

will be built. I assume that it will be quite generally agreed that in determining the value of the water rights of the San Joaquin Corporation, consideration should be given only to the present development or to such additional development as can be confidently counted on for the near future.

Mr. Kenny, as already pointed out, has considered only the developments on the North Fork of the San Joaquin River and on the Kern River, which developments the San Joaquin Corporation apparently assumed might show an affirmative value. The corporation has entirely left out of its computations the Tule River development and the Merced Falls development, which developments, under the corporation's own theory, admittedly show a negative value. It is obviously improper when seeking to ascertain the value of a utility's water rights for the generation of hydroelectric energy, to consider only those portions of the utility's hydroelectric development which seem to show an affirmative value and to leave out of consideration entirely those developments which would show a negative value. The value of a utility's water rights should be ascertained only from a consideration of the utility's entire water system used and useful in its business. For these reasons, the computations presented by Mr. Grunsky are entitled to greater consideration herein than those presented by the San Joaquin Corporation's own employees.

In order to ascertain the result of the comparative steam plant method when properly applied to the facts of these proceedings, the Commission has made an independent computation. The following table shows the cost of generating hydroelectric energy in the San Joaquin Corporation's present system, based on the electric energy sold in the year 1914, not including general and administrative expenses and taxes:

TABLE No. XV.

Water Right Valuation—San Joaquin Light and Power Corporation's Present System.

Capital—

Production capital:

Crane Valley reservoir ----- \$1,177,044 56

Power plants ----- 3,389,538 70

Total ----- \$4,566,583 26

Proportion of transmission capital:

Production plant substation equipment ----- \$202,337 79

Transmission lines ----- 202,068 82

404,406 61

Total production and transmission ----- \$4,970,989 87

Estimated return--

Interest at 8 per cent -----		\$397,679 18
Depreciation :		
Production -----	\$92,430 36	
Transmission 22.965 per cent -----	14,154 00	
		106,584 36
Expenses :		
Production -----	\$132,977 58	
Transmission 22.965 per cent -----	8,208 13	
		141,185 71
<hr/>		
Total return, not including general, administrative, etc., and taxes, -----		\$645,749 26

In the foregoing table, the production capital and the estimated allowance for interest and depreciation have been taken from Mr. Kenny's report of the cost of service for the production system, as shown by Exhibit No. 27 of the San Joaquin Corporation. To the production capital has been added the estimated cost of power plant substation equipment and the cost of the transmission lines connecting the power plants with the main transmission lines, as shown in Railroad Commission's Exhibit No. 2. The transmission operating expenses and depreciation as reported by Mr. Kenny for 1914 have been prorated to this capital on the basis of relative investment. No general expenses or taxes have been included for comparative purposes. The Kenny values have been used in so far as possible.

The following table shows the cost of producing electric energy in two substitutional steam plants, one of which, with an installed capacity of 25,000 kilowatts, is assumed to be located at Bakersfield, while the other, with an installed capacity of 5,000 kilowatts, to act as an auxiliary, is assumed to be located at Fresno:

TABLE No. XVI.

Comparative Steam Plants at Bakersfield and Fresno, Cost of Production by Steam.
MAIN PLANT.

25,000 kilowatts at Bakersfield.

Investment--

25,000 kilowatts at \$50.00 -----	\$1,250,000 00
Overhead 17½ per cent -----	218,750 00
	\$1,468,750 00
Substation equipment -----	146,750 00
	\$1,615,500 00
Total -----	

Estimated return—

Interest at 8 per cent		\$129,240 00
Depreciation :		
Steam plant at 3.17 per cent.....	\$46,559 37	
Substation at 3.62 per cent.....	5,313 00	
		51,872 37
Operation (running expense) :		
Steam plant expense, other than oil and supplies..	\$41,418 44	
Supplies	3,373 74	
Substation expense	2,979 00	
Fuel oil, 481,421 barrels at 50 cents.....	240,710 50	
		288,481 68
Total main plant.....		\$469,594 05

AUXILIARY PLANT.

5,000 kilowatts at Fresno.

Investment—

5,000 kilowatts at \$50.00.....	\$250,000 00
Overhead 17½ per cent.....	43,750 00
	\$293,750 00
Substation equipment	29,350 00
Total	\$323,100 00

Estimated return—

Interest at 8 per cent		\$25,848 00
Depreciation :		
Steam plant	\$9,311 87	
Substation	1,062 00	
		10,373 87
Operating expense :		
Steam plant expense other than oil.....	\$9,000 00	
Substation expense	595 00	
Oil	13,500 00	
		23,095 00
Total auxiliary plant		\$59,316 87
Total steam production (not including general expense or taxes)		\$528,910 92

It will be observed from the foregoing tables that while the cost of production in the comparative steam plants, not including general expense or taxes, would be \$528,910.92, the cost of production in the San Joaquin Corporation's present hydroelectric production system, is, on Mr. Kenny's computations with the necessary modifications, \$645,749.26, with oil at 50 cents per barrel at Bakersfield.

The total cost of fuel oil under the present system of the San Joaquin Corporation, taking an average of 1913 and 1914, was \$71,367.72. The cost of fuel oil in the comparative plant used in the Commission's computations, assuming 50 cents per barrel at Bakersfield and 75 cents

per barrel at the auxiliary plant at Fresno, would be \$254,210.50, or \$182,842.78 in excess of the actual consumption of the present system during 1913 and 1914. At 50 cents per barrel for oil at Bakersfield, the comparative plant would use 356,696 barrels of oil annually in excess of the existing plant. Hence it follows that for each 5 cents increased cost of oil at Bakersfield, the increase of the cost for the comparative steam plant would be \$17,834.70.

The following table shows the value of the water rights of the San Joaquin Corporation, on the Commission's computations, with fuel oil at varying prices at Bakersfield. The results are all negative:

TABLE No. XVII.

Value of Water Rights of San Joaquin Light and Power Corporation on Commission's Computations on Comparative Steam Plant Theory.

Price of oil at Bakersfield	Net saving over steam	Capitalized at 8 per cent water right value
50 cents per barrel.....	— \$116,838 31	— \$1,450,479 00
55 cents per barrel.....	— 99,003 54	— 1,237,544 00
60 cents per barrel.....	— 81,168 74	— 1,014,609 00
65 cents per barrel.....	— 63,333 94	— 791,674 00
70 cents per barrel.....	— 45,499 14	— 568,739 00
75 cents per barrel.....	— 27,664 34	— 345,804 00

The sign — means a negative result.

As shown by the computations of Mr. Grunsky and of the Railroad Commission, the result of the application of the comparative steam method, reasonably applied, is to show that the water rights of San Joaquin Corporation have at present a large negative value and that they will continue to have a negative value until the price of oil at Bakersfield has risen approximately 50 per cent in excess of its present price. Hence, it is unnecessary in these proceedings to pass upon the question whether, in case the result of the reasonable application of the comparative steam plant method should show an affirmative value for a utility's water rights, the entire benefit of such value belongs to the utility. I shall content myself at the present time with pointing out that such conclusion might lead to unjust results, in that it would deprive the consuming public of California of all the fruits of the advantages which should come to them by reason of the fact that they live in a State to which nature has given lofty mountains down which great streams of wonderful power dash in their race to the sea. When the proper time comes, the Commission will give consideration to the question whether the benefit of these natural resources of California should accrue entirely to the utility which happens to post and record certain notices of appropriation, or whether the people of California are entitled to some share in these advantages.

Detriment to lower riparian owners.

The San Joaquin Corporation also presented a claim to the value of its water rights on the North Fork of the San Joaquin River, based on a capitalization at 8 per cent per annum of the alleged detriment suffered by the owners of riparian lands on the San Joaquin River down to its confluence with the Merced River, caused by the withholding of water by the San Joaquin Corporation in the Crane Valley reservoir during March and April of each year.

The argument, in effect, is that during the months of March and April, the Crane Valley reservoir withholds a small portion of the waters which otherwise would be available for the irrigation of riparian lands on the San Joaquin River, and that thereby an ascertainable damage is done to such riparian lands. The San Joaquin Corporation assumes on the cost of reproduction theory, that its water rights on the North Fork of the San Joaquin River are worth what it would cost to acquire them in case the corporation did not own them and that the cost of acquisition would be measured by the detriment assumed to be caused to the lower riparian lands by the withholding of certain waters in March and April of each year. The corporation capitalizes the assumed detriment and reaches the conclusion that on this theory, its water rights on the North Fork of the San Joaquin River are worth somewhere between \$650,000.00 and \$1,000,000.00.

In support of this claim, the San Joaquin Corporation presented data to show the extent to which the Crane Valley reservoir interferes with the normal flow of the San Joaquin River. This data was compiled by Mr. C. E. Grunsky, and appears in Exhibit No. 23 of the San Joaquin Corporation. The following table shows the average effect of the operation of the Crane Valley reservoir upon the flow of the San Joaquin River, as computed by Mr. Grunsky from the records of 1910 to 1914, inclusive:

TABLE No. XVIII.

Effect of Operation of Crane Valley Reservoir on Flow of San Joaquin River.

The flow of the river in October was increased by 51.7 second feet.
 The flow of the river in November was increased by 37.7 second feet.
 The flow of the river in December was increased by 31.2 second feet.
 The flow of the river in January was decreased by 94.7 second feet.
 The flow of the river in February was decreased by 35.8 second feet.
 The flow of the river in March was decreased by 87.4 second feet.
 The flow of the river in April was decreased by 73.9 second feet.
 The flow of the river in May was decreased by 67.2 second feet.
 The flow of the river in June was decreased by 19.3 second feet.
 The flow of the river in July was increased by 34.0 second feet.
 The flow of the river in August was increased by 46.5 second feet.
 The flow of the river in September was increased by 47.7 second feet.

It will be observed that although the flow of the river is decreased from January to June, inclusive, it is increased from July to December,

inclusive. This increase is due to the fact that water held in storage in the Crane Valley reservoir is let down during the latter half of the year for the purpose of generating power, and thus increases what otherwise would be the normal flow of the river during this period of the year. The irrigating season in this vicinity generally commences in March or April and usually ends in October. The period when water is most needed for irrigation is during June, July and the subsequent months.

The following table shows the effect in percentages of the storage of water in the Crane Valley reservoir on the flow of the San Joaquin River above 1,500 second-feet, during the first six months of the year:

TABLE No. XIX.

Effect in Percentages of Storage of Water in Crane Valley Reservoir Upon Flow in San Joaquin River Above 1,500 Second Feet.

Month	1910. Per cent	1911. Per cent	1912. Per cent	1913. Per cent	1914. Per cent	Average, 1913-15. Per cent
January -----	-9.2			-8.5		-16.1
February -----	+1.4			-13.0		-14.6
March -----	-6.1			-2.8	-16.4	-8.1
April -----	-1.2		-11.2	-0.6	-4.0	-2.6
May -----	.0	-3.4	-0.5	-0.3	-3.4	-1.2
June -----	+0.1	-0.8	+0.8	.0	-0.5	-0.2

There is no claim herein that any injury whatsoever is caused to lower riparian owners by storing water in the Crane Valley reservoir in the months of January and February. The San Joaquin Corporation's claim is limited to detriment supposed to be caused in the month of March, during which month the operations of the Crane Valley reservoir have diminished the normal flow of the San Joaquin River on an average of 8.1 per cent, and in the month of April, during which month the operations of the Crane Valley reservoir have diminished the normal flow of the San Joaquin River 2.6 per cent. It will be observed that the interference with the normal flow of the San Joaquin River during the months of March and April is slight in any event.

The San Joaquin Corporation introduced evidence to show that 209,223 acres of land are riparian to the San Joaquin River down to its confluence with the Merced River. Of this acreage, 40,000 acres are irrigated by the first 1,500 second-feet of the San Joaquin River. The San Joaquin Corporation does not claim any right to store water in the Crane Valley reservoir if the flow of the river is below 1,500 second-feet. Hence, the acreage of riparian lands which are assumed to be affected by the storage of water in the Crane Valley reservoir amounts to 169,223 acres. The San Joaquin Corporation introduced

evidence to show that if the waters of the San Joaquin River were *entirely* withheld, the damage to riparian lands would amount to an average of between \$65.00 and \$75.00 per acre. On this basis, as pointed out in the San Joaquin Corporation's brief, the detriment to 170,000 acres of riparian lands would amount to \$11,050,000.00. The San Joaquin Corporation, however, admits that it would be necessary to construct nineteen or twenty other reservoirs, each having the same effect as the Crane Valley reservoir, in order completely to deprive the lower riparian lands of water. The San Joaquin Corporation assumes that only between 5 per cent and 7 per cent of the normal flow of the San Joaquin River above 1,500 second-feet is withheld in the months of March and April, and hence concludes that the assumed damage to the lower riparian lands is 6 per cent of \$11,050,000.00, "or a valuation somewhat in excess of \$650,000.00." I may draw attention in passing to the fact that Mr. Grunsky's report shows that although 8.1 per cent of the normal flow of the San Joaquin River is withheld by the Crane Valley reservoir in the month of March, only 2.6 per cent is withheld in the month of April, during which month irrigation in this territory to a considerable extent commences.

Having now stated the corporation's theory, I shall proceed to a consideration of its merits.

Attention should be drawn at the outset to the fact that no witness testified that the withholding by the Crane Valley reservoir of 8.1 per cent of the normal flow of the San Joaquin River in the month of March and 2.6 per cent in the month of April will do any measurable damage or any damage at all to the lower riparian lands. The only basis for this claim is the statement of counsel of the San Joaquin Corporation in their brief. For all that appears in the evidence, the withholding of this comparatively small amount of water would do no measurable damage to any owner of riparian lands on any portion of the San Joaquin River. As bearing on the question whether any real damage would be occasioned, I shall shortly refer to the contract dated June 14, 1909, between Miller & Lux, Incorporated, the principal riparian owners on the San Joaquin River to its confluence with the Merced River, and San Joaquin Light and Power Company. Even if damages had been shown, there is no evidence in these proceedings worthy of serious consideration as to the amount of such damages. The mere statement that riparian lands would be damaged to the extent of \$65.00 to \$75.00 per acre if nineteen or twenty more Crane Valley reservoirs were constructed, so that the flow of the river would be entirely withheld during certain months from the lower riparian owners, is of no assistance in determining what damages, if any, have actually been caused by a reservoir which withholds only 8.1 per cent of the normal flow of the San Joaquin River during the month of March and 2.6 per

cent in the month of April. Furthermore, such a claim entirely leaves out of consideration the very great advantage which would ensue to lower riparian lands if they could secure largely added amounts of water in the months of July, August, September, and October, which waters would be let down during these months through the power houses connected with the nineteen or twenty assumed Crane Valley reservoirs.

This matter brings me to a consideration of the question whether the lower riparian lands have, as a matter of fact, suffered any injury whatsoever by reason of the operation of the Crane Valley reservoir.

Subsequent to the submission of these proceedings, the presiding Commissioner accidentally learned of the existence of the Miller & Lux contract, which contract was not offered in evidence by the San Joaquin Corporation and was in no way referred to by name or in any way to direct attention thereto, in the evidence or in the brief of counsel. The San Joaquin Corporation was thereupon requested to file a copy of the contract, and did so. Under the stipulation to the effect that all documents filed by the San Joaquin Corporation subsequent to the submission of these proceedings would be considered in evidence herein, this contract is a part of the record in these proceedings.

The contract is dated June 14, 1909, and is an agreement between Miller & Lux, Incorporated, Las Animas and San Joaquin Land Company, Incorporated, and California Pastoral and Agricultural Company, Limited, parties of the first part, and San Joaquin Light and Power Company, party of the second part. The contract recites, in part, that the Miller & Lux corporations are the owners of a large acreage of land in the counties of Fresno, Madera, Merced, and Stanislaus, the larger portion of which border on the main channels and the branches and sloughs of the San Joaquin River; that the Miller & Lux corporations have diverted and appropriated from the San Joaquin River large quantities of water for irrigation, domestic and other beneficial purposes and that part of the water used for irrigation has been used upon lands riparian to the San Joaquin River and part upon other lands; and that the flow of the water in the San Joaquin River is irregular, so that during certain months of the year there is a large flow and during other months insufficient to supply the lands of the Miller & Lux corporations with water for irrigation purposes as well as for stock and domestic uses. The agreement then proceeds as follows:

“Whereas it will be for the interest of the parties of the first part hereto to have reservoirs constructed upon the North Fork of the San Joaquin River, a tributary of said San Joaquin River, provided such reservoirs can be filled with water by retaining therein a portion of the water flowing in said North Fork, or in its branches or tributaries at periods of the year when there is a large volume of water flowing down the main channel of the said

San Joaquin River and through and over the lands and to the canals and ditches of the parties of the first part; and provided, further, that such water after being so reservoiried can be regularly returned to the channel of said North Fork or to the channel of said San Joaquin River, at seasons of the year when there is a small volume of water flowing in said river, so as to supply the lands, and to the canals and ditches of the parties of the first part, a more regular flow, and a greater amount of water, than naturally flows down said river, during the periods of each year when the water becomes low in said river."

I desire to draw attention particularly to the fact that the lower riparian owners here agree that it will be to their interest to have reservoirs constructed upon the North Fork of the San Joaquin River, for the reason that the storage of water in such reservoirs and the subsequent use of such water for the generation of hydroelectric energy will result in putting into the San Joaquin River for the irrigation of riparian lands large amounts of water during the periods of each year when the water becomes low in the river, meaning thereby the months of July, August, September, and October. Thus, instead of being a detriment to the lower riparian owners, the construction of the Crane Valley reservoir is here solemnly declared to be a benefit to these owners.

In a subsequent recital, the San Joaquin Light and Power Company, which is the immediate predecessor of the San Joaquin Light and Power Corporation and was controlled by the same people, agrees that it will return to the natural channel of the North Fork of the San Joaquin River all the water which it may reservoir in Crane Valley reservoir "so that it shall flow down to the lands and canals of the parties of the first part, each and every year, at period or periods of time when there is only a small volume of water naturally flowing in said river, and when an increased flow will be of great benefit to said parties of the first part."

The San Joaquin Light and Power Company agrees that it will commence construction of the Crane Valley reservoir within six months from the date of the agreement, and that within two years thereafter it will complete its dams and reservoirs to the capacity of at least 30,000 acre-feet, and will thereafter maintain and operate the same at least to that capacity. In order to show the interest of the Miller & Lux corporations in having this agreement performed and in having the waters of Crane Valley reservoir withheld during certain months and let out during later months, the agreement provides that if any one should commence an action to interfere with the construction by the San Joaquin Light and Power Company of its works, the latter company will "with all reasonable diligence take such proceedings as may be necessary to prevent the granting of any such restraining order or

injunction, and to have the same dissolved if granted." The San Joaquin Light and Power Company further agrees that if any one should be successful in securing an injunction, the San Joaquin Light and Power Company will at once take all necessary steps to condemn the rights and interests of such person and to prosecute such action to final determination with all reasonable diligence.

It seems too clear for argument, from this contract, that the Miller & Lux corporations were of the opinion that the construction of the Crane Valley reservoir and the impounding of water therein, with the letting out of this water during the summer and autumn months, would be a very great benefit to them as the owners of riparian lands on the San Joaquin River. Any person familiar with the conditions on the San Joaquin River would naturally expect that the riparian owners would take this position. Exhibit No. 21 of the San Joaquin Corporation shows that out of a total of 209,223 acres riparian to the San Joaquin River in Fresno, Madera, and Merced counties, Miller & Lux, Incorporated, own 142,906.29 acres. The record does not show the extent to which the other two affiliated corporations mentioned in the contract of June 14, 1909, as parties of the first part, also own riparian lands on the San Joaquin River. There is no reason, however, to doubt that the position of Miller & Lux, as the owners of over two-thirds of the riparian lands in the territory here under consideration, would not be the position taken by every other riparian owner.

The contract of June 14, 1909, entered into between the principal riparian owners and the immediate predecessor of the San Joaquin Corporation absolutely disproves and refutes the claim of San Joaquin Light and Power Corporation to a value for its water rights on the North Fork of the San Joaquin River, based upon an alleged and assumed detriment to the lower riparian owners resulting from the operation of the Crane Valley reservoir.

As already indicated, this contract was not drawn to the Commission's attention by the San Joaquin Corporation, and it was only through mere chance that the presiding Commissioner became aware of its existence. To say that this corporation has not dealt fairly with the Railroad Commission in suppressing this contract is to put the matter mildly. Those officials or such counsel of the San Joaquin Light and Power Corporation as are responsible for the failure to present this contract in evidence deserve severe censure from this Commission. This matter is particularly unfortunate in that most of the officials and counsel of the San Joaquin Corporation have dealt with absolute fairness and candor with the Commission in these proceedings.

I am now brought to a consideration of the question whether, under any theory, a water right value can be allowed by this Commission in connection with the San Joaquin Corporation's Crane Valley develop-

ment. While there were some references in the course of the hearings to the fact that this reservoir was built and a portion of the lands in its basin were flooded under a Federal permit, no copy of such permit was introduced in evidence. After the submission of these proceedings, the Commission called upon the San Joaquin Corporation and received from it a copy of the agreement with the Department of Agriculture under which the Crane Valley reservoir was constructed. This agreement is dated July 27, 1912. It appears from this agreement and from map showing location of the San Joaquin Corporation's hydro-electric properties on the North Fork of the San Joaquin River, which has been marked Exhibit No. 63 of the San Joaquin Corporation, that the structure of the Crane Valley dam has been built partly, if not entirely, on land in the Sierra National Forest belonging to the Government of the United States and that approximately 227 acres of the area flooded by the dam is likewise National Forest land. In other words, without a permit from the National Government, the Crane Valley reservoir could not have been constructed, and the land in the lower portion of the reservoir adjacent to the dam could not have been flooded.

The power agreement provides that the rights granted thereby shall be void upon the expiration of fifty years from October 12, 1909, but that the permit may thereafter be renewed by the duly authorized officer or agent of the United States upon such conditions as he may in his discretion establish. The agreement reads in part as follows:

"The permittee (San Joaquin Light and Power Corporation) does hereby, in consideration for the permit hereby applied for, promise and agree for itself and its successors to comply with all regulations and instructions of the Department of Agriculture governing national forests."

Article XXIX of the regulations of the Secretary of Agriculture and instructions to forest officers relating to water power, effective February 24, 1913, reads as follows:

"That in respect to the regulation by any competent public authority of the service to be rendered by the permittee or the price to be charged therefor and in respect to any purchase or taking over of the properties or business of the permittee or any part thereof by the United States, or by any state within which the works are situated or business carried on in whole or in part, or by any municipal corporations in such state, no value whatsoever shall at any time be assigned to or claimed for the permit, or for the occupancy or use of national forest lands granted thereunder, nor shall the permit or such occupancy and use ever be estimated or considered as property upon which the permittee shall be entitled to earn or receive any return, income, price, or compensation whatsoever."

In view of the fact that the permit from the Federal Government is a condition *sine qua non* to the exercise of any rights in connection with the Crane Valley reservoir, I assume that it would be admitted that if this regulation of the Federal Government had been in effect when the San Joaquin Corporation secured its permit, the corporation could not claim any water right value in connection with the Crane Valley development. I have searched for a similar rule or regulation in effect on July 27, 1912, at which time the power agreement affecting the Crane Valley development was signed, but have been unable to find such regulation then in effect.

Section 52 of the Public Utilities Act provides as follows:

"The commission shall have no power to authorize the capitalization of the right to be a corporation, or to authorize the capitalization of any franchise or permit whatsoever or the right to own, operate or enjoy any such franchise or permit, in excess of the amount (exclusive of any tax or annual charge) actually paid to the state or to a political subdivision thereof as the consideration for the grant of such franchise, permit or right."

If the word "state" be considered broad enough to include the Federal Government, it would seem to be clear that under this provision of the Public Utilities Act the Railroad Commission would have no authority to capitalize any permit such as the one under which the San Joaquin Corporation holds its Crane Valley rights from the Federal Government. If this Commission is without authority to allow the capitalization of such a permit, it would seem equally clear that it can not allow a value for such permit in a rate case.

Even if section 52 of the Public Utilities Act should be held inapplicable, for the reason that this permit was granted by the Federal Government and not by a state government, the case, nevertheless, seems to fall within the general rule as to which authorities are cited in the Mt. Whitney Power and Electric Company cases, this day being decided, to the effect that in a rate case no allowance should be made for governmental franchises or permits in excess of the amounts actually paid to the granting public authority.

It is, of course, elemental that if a utility claims a value for water rights, it must sustain the burden of demonstrating such value. For the reason that the San Joaquin Corporation has not proved any value to its water rights in these proceedings, no allowance is being made herein for water right values in excess of the moneys actually expended by the San Joaquin Corporation and its predecessors in connection therewith. All rentals and other payments in connection with the water rights of the San Joaquin Corporation are being allowed as operating expenses.

(g) *Fair return.* The following table shows the fair value of the property of the San Joaquin Corporation, used and useful in the corporation's electric business as of January 1, 1916, for the purpose of this proceeding, together with a reasonable depreciation annuity:

TABLE No. XX.

Fair Value of Property of San Joaquin Light and Power Corporation, Used and Useful in Electric Business, as of January 1, 1916.

Acct. No.	Account	Fixed capital	Depreciation annuity
INTANGIBLE CAPITAL.			
C-1.	Organization	\$32,399	
C-2.	Electric franchise	4,762	\$16
C-4.	Other intangible capital	48,910	
	Total intangible capital	\$86,071	\$16
TANGIBLE CAPITAL.			
<i>Landed Capital.</i>			
C-5.	Land devoted to electric operations:		
	a. Land devoted to production operations	\$123,782	
	b. Land devoted to transmission operations	2,200	
	c. Rights of way devoted to transmission operations	12,684	
	d. Land devoted to distribution operations	12,907	
	e. Land devoted to other operations	63,170	
	Total land devoted to electric operations	\$214,743	
<i>Production Capital.</i>			
C-6.	Dams, water conduits and penstocks	\$2,590,676	\$5,415
C-7.	Power plant buildings and general structures	348,442	1,699
C-8.	Hydraulic power plant equipment	366,125	5,951
C-9.	Furnaces, boilers and accessories	254,653	4,931
C-10.	Steam power plant equipment	313,166	4,569
C-13.	Miscellaneous production equipment	16,026	298
	Total production capital	\$3,889,088	\$22,863
<i>Transmission and Distribution Capital.</i>			
C-14.	Poles and fixtures:		
	a. Transmission	\$540,045	\$14,681
	b. Distribution	798,443	21,706
C-15.	Overhead system:		
	a. Transmission	799,765	7,177
	b. Distribution	916,100	8,221
C-16.	Underground conduits:		
	b. Distribution	1,887	34
C-17.	Substation buildings and general structures:		
	a. Transmission	28,508	520
	b. Distribution	52,036	949
C-18.	Substation equipment:		
	a. Transmission (at power house)	183,763	3,349
	Transmission (at stations)	131,339	2,394
	b. Distribution	290,420	5,293
C-19.	Miscellaneous equipment:		
	b. Distribution	1,141	31

TABLE No. XX—Continued.

Acct. No.	Account	Fixed capital	Deprecia- tion annuity
C-20.	Line transformers and devices:		
	a. Transmission	4,909	133
	b. Distribution	508,925	13,835
C-21.	Electric services	109,141	4,689
C-22.	Meters	323,048	13,879
C-23.	Municipal street lighting system	49,713	2,136
C-24.	Commercial lamps and lamp equipment	1,214	52
C-26.	Installations on consumers' premises	30,968	842
	Total transmission and distribution capital	\$4,771,365	\$99,921
	<i>General Capital.</i>		
C-27.	General structures	\$68,704	\$869
C-28.	General equipment	155,530	11,800
C-29.	Telephone lines	131,469	4,254
C-30.	Roads, trestles and bridges:		
	a. Production	98,830	332
	b. Transmission	1,316	5
	Total general capital	\$455,849	\$17,260
	Total tangible capital	\$9,331,045	\$140,044
	Material and supplies	328,624	
	Working capital	133,500	
	Construction capital	175,300	4,475
	Grand total	\$10,054,540	\$144,535

The values shown in the foregoing table are ascertained by taking the value of the property on January 1, 1915, as shown by the evidence in these proceedings, and by adding thereto the additions and betterments for the year 1915, and by making necessary deductions and additions. In the total property value as of January 1, 1916, are included the estimated cost of acquiring all the transformers on the system of the San Joaquin Corporation, now privately owned, and also the proper charges to capital account in connection with the reconstruction of the San Joaquin Corporation's transmission and distribution lines in accordance with the provisions of chapter 499 of the Laws of 1911 and chapter 600 of the Laws of 1915. As will be observed, the property values as of January 1, 1916, include \$328,624.00 for material and supplies and \$133,500.00 for working capital.

Exhibit No. 54 of the San Joaquin Corporation shows that the average annual cost of bond money to the San Joaquin Corporation and its predecessors, with amortization on the straight line basis, has been 6.18 per cent, and that with amortization on the sinking fund basis the annual cost of bond money has been 6.01 per cent. While the cost of money to the San Joaquin Corporation and its predecessors through the sale of bonds has thus been only slightly in excess of 6 per cent, I recommend that in these proceedings, in the present state of development of the business of San Joaquin Corporation, the Commission allow a return of 8 per

cent on the fair value of the property. This return is being allowed notwithstanding the fact that extensive transmission and distribution lines have been constructed, apparently largely for the purpose of holding the territory as against a competitor.

The San Joaquin Corporation is as yet, to a considerable extent, in a development period, and it will be necessary for the corporation to secure large additional sums of money in order to develop the territory served by it. The return herein allowed is, in view of the cost of bond money, a generous return and will be sufficient to induce the necessary additional capital to invest in the business of the San Joaquin Corporation. In my opinion, it is far wiser and more straightforward to ask for a generous return than to try to secure an inflated valuation.

I find as a fact that the sum of \$804,363.20 is a fair, just, and reasonable sum to be received by the San Joaquin Corporation as an annual return, under existing conditions, on the fair value of the corporation's property.

3. *Operating expenses.*

The following table shows the operating expenses of the San Joaquin Corporation, as shown in the corporation's annual reports for the years ending December 31, 1913, 1914 and 1915, and reasonable operating expenses, including a depreciation annuity, as determined from an analysis of the evidence in these proceedings:

TABLE No. XXI.

Operating Expenses of San Joaquin Light and Power Corporation for the Years Ending December 31, 1913, 1914 and 1915, and Reasonable Operating Expenses Herein Determined.

Acct. No.	Account	1913	1914	1915	Operating expenses used in rate determination
<i>Production Expenses.</i>					
E-1.	Superintendence	\$1,318 80	\$2,666 30	\$3,981 74	\$3,982 00
E-2.	Water collection labor and expense	7,604 36	7,700 02	7,388 25	7,344 00
E-4.	Steam generation labor...	12,716 73	5,766 00	6,213 90	8,242 00
E-5.	Fuel	119,450 52	11,515 51	6,146 21	34,174 00
E-6.	Steam generator supplies..	2,349 88	730 43	935 79	1,335 00
E-12.	Electric plant labor.....	13,599 99	15,882 84	15,732 96	17,827 00
E-13.	Electric plant supplies....	815 20	869 72	740 35	925 00
E-14.	Purchased power	54,273 25	314 93		
E-15.	General labor and supplies	3,963 06	3,528 22	3,709 98	3,883 00
	Total production oper- ating expenses	\$216,121 79	\$49,033 97	\$44,819 18	\$77,912 00
E-16.	Repairs to dams, water conduits and penstocks..	\$7,022 06	\$1,911 63	\$2,250 14	\$2,340 00
E-17.	Repairs to power plant and buildings	1,669 96	2,003 72	1,511 12	1,779 00
E-18.	Repairs to hydro equip- ment	4,293 40	4,218 39	3,541 43	3,980 00
E-19.	Repairs to boilers.....	2,511 10	1,307 35	1,240 94	1,686 00

TABLE No. XXI—Continued.

Operating Expenses of San Joaquin Light and Power Corporation for the Years Ending December 31, 1913, 1914 and 1915, and Reasonable Operating Expenses Herein Determined.

Acct. No.	Account	1913	1914	1915	Operating expenses used in rate determination
E-20.	Repairs to steam power plant equipment	2,444 38	2,924 81	534 25	1,968 00
E-23.	Repairs, miscellaneous production equipment	755 10	429 81	479 52	597 00
	Total production maintenance expense	\$18,696 00	\$12,796 71	\$9,557 40	\$12,330 00
	Total production expense	\$234,817 79	\$61,830 68	\$54,406 58	\$90,262 00
	<i>Transmission Expenses.</i>				
E-24.	Superintendence	\$150 76	\$203 56	\$518 71	\$519 00
E-25.	Inspecting and patrolling	3,745 95	5,474 59	6,140 17	6,140 00
E-26.	Substation labor	2,781 09	3,574 81	3,510 23	3,543 00
E-27.	Substation supplies and expense	520 39	724 13	840 37	841 00
E-28.	General labor and supplies	2,512 61	6,329 02	7,418 77	7,000 00
	Total transmission operating expense	\$9,710 80	\$16,306 11	\$18,428 70	\$18,043 00
E-29.	Repairs, overhead trans. system	\$7,282 78	\$9,514 73	\$5,069 68	\$7,292 00
E-31.	Repairs, sub. bldg. and gen. str.	1,875 37	340 51	62 71	800 00
E-32.	Repairs, substation equip.	1,262 75	4,277 69	1,657 41	2,968 00
E-33.	Repairs, misc. trans. equip.	770 08	623 76	537 25	658 00
	Total trans. maintenance expense	\$11,190 98	\$14,756 69	\$7,027 05	\$11,718 00
	Total trans. expenses	\$20,901 78	\$31,062 80	\$25,755 75	\$29,761 00
	<i>Distribution Expenses.</i>				
E-34.	Superintendence	\$4,371 73	\$7,015 29	\$7,693 89	\$7,700 00
E-35.	Substation labor	6,542 95	8,347 61	11,778 37	11,780 00
E-36.	Substa. supplies and exp.	2,596 44	4,430 36	3,541 60	3,986 00
E-37.	Storage battery labor	21 32			
E-38.	Storage battery supplies and expenses	20 04			
E-39.	Setting and removing trans. and meters	5,883 18	10,146 13	11,751 68	12,000 00
E-40.	Inspecting and patrolling	3,113 70	3,455 75	2,792 68	2,800 00
E-41.	Electric meter operations	9,783 82	12,773 82	11,414 12	11,414 00
E-42.	Commercial arc labor	507 90	490 40	471 00	471 00
E-43.	Commercial arc supplies and repairs	208 00	139 15	32 16	32 00
E-44.	Com'l incan. lamp installation and renewals	99 60	56 70	118 92	120 00
E-45.	Inspection and repairs of consumers' installations	15,095 52	30,449 19	19,282 25	19,282 00
E-46.	Municipal street arc labor	3,039 32	2,926 69	2,651 28	2,789 00
E-47.	Municipal street arc supplies	1,242 61	1,285 92	1,911 32	1,911 00
E-48.	General labor and supplies	2,034 74	4,678 57	5,768 96	5,769 00
	Total operating exp.	\$54,560 87	\$86,195 58	\$79,208 43	\$80,054 00

TABLE No. XXI—Continued.

Operating Expenses of San Joaquin Light and Power Corporation for the Years Ending December 31, 1913, 1914, and 1915, and Reasonable Operating Expenses Herein Determined.

Acct. No.	Account	1913	1914	1915	Operating expenses used in rate determination
E-49.	Repairs, substa. bldg. and gen. str.	\$300 57	\$751 26	\$385 93	\$180 00
E-50.	Repairs, substa. equipment	7,553 56	6,399 71	3,459 16	5,810 00
E-51.	Repairs, overhead distrib. system	15,269 05	15,717 13	12,521 67	25,067 00
E-52.	Repairs, underground distrib. system				10 00
E-53.	Repairs, line trans. and devices	7,281 22	5,796 94	5,300 57	7,881 00
E-54.	Repairs, electric services	2,133 70	2,298 78	2,395 28	2,867 00
E-55.	Repairs, electric meters	653 67	3,352 32	2,514 14	2,593 00
E-56.	Repairs, municipal street lighting system	1,623 69	2,653 87	2,351 34	2,210 00
E-57.	Repairs, com'l arc lamps		22 02	8 87	10 00
E-58.	Repairs, installations on consumers' premises	4,767 08	232 04	1,176 41	2,059 00
E-59.	Repairs, miscellaneous distrib. equipment	1,103 62	956 30	1,185 95	1,116 00
	Total distrib. maintenance expense	\$40,689 16	\$38,180 39	\$31,389 32	\$50,093 00
	Total distrib. expenses	\$95,250 03	\$124,375 97	\$110,597 75	\$130,147 00
	<i>Commercial Expenses.</i>				
E-60.	New business expenses	\$37,935 92	\$32,175 42	\$32,009 89	\$14,310 00
E-61.	Free installation expenses	923 69	347 94	2,118 65	2,119 00
E-62.	Commercial dept. salaries and expenses	19,215 10	17,678 61	17,294 78	30,993 00
E-63.	Commercial dept. indexing	8,651 24	9,566 30	8,869 02	6,303 00
E-64.	Com'l dept. collections	13,732 14	17,807 82	17,978 12	17,978 00
E-65.	Misc. com'l expenses		2,680 67	4,104 50	1,000 00
	Total com'l expenses	\$80,458 09	\$80,256 76	\$82,374 96	\$73,003 00
	<i>General and Miscellaneous Expenses.</i>				
E-66.	Salaries of general officers	\$56,155 34	\$40,232 88	\$35,079 51	\$35,000 00
E-67.	Salaries of general office clerks	28,727 46	29,520 88	24,319 36	32,820 00
E-68.	Misc. general office supplies and expenses	52,102 84	49,967 16	51,657 53	50,800 00
E-69.	Law expenses—general	4,310 40	6,914 26	10,070 28	4,310 00
E-70.	Railroad Com. expenses	20 40	65 00	21,270 67	1,000 00
E-71.	Injuries and damages	4,999 92	12,313 27	11,868 71	12,000 00
E-74.	Other general expenses	4,088 32	2,920 78	2,882 49	2,900 00
E-75.	Insurance	3,213 42	3,704 12	3,624 08	3,660 00
	Total gen'l oper. exp.	\$153,648 10	\$147,638 35	\$160,772 63	\$142,520 00
E-76.	Repairs to gen'l structures	\$381 38	\$200 27	\$119 11	\$300 00
E-77 to E-81.	Repairs to general equipment	674 94	739 38	737 96	700 00
E-82.	Repairs to telephone lines	5,153 92	4,204 24	3,572 84	4,567 00
E-83.	Repairs to roads, trestles and bridges	790 52	977 30	295 41	-----
E-84.	Elec. exp. transferred -Cr..	310 50	176 05	106 90	-----

TABLE No. XXI—Concluded.

Operating Expenses of San Joaquin Light and Power Corporation for the Years Ending December 31, 1913, 1914, and 1915, and Reasonable Operating Expenses Herein Determined.

Acct. No.	Account	1913	1914	1915	Operating expenses used in rate determination
E-86.	Undistributed adjustments—Balances -----		5,483 23	1,522 07	
E-87.	Extraordinary repairs -----		11,417 32	4,384 20	
E-88.	Repairs charged to reserve—Cr. -----	7,811 89	11,417 32	4,384 20	
	Total general maintenance expenses -----	\$1,121 63	\$11,488 37	\$6,140 49	\$5,567 00
	Total general and miscellaneous expenses..	\$152,526 47	\$159,126 72	\$166,913 12	\$148,087 00
	<i>Taxes.</i>				
E-91.	Taxes -----	\$45,093 89	\$67,789 31	\$81,361 91	\$78,704 00
	<i>General Amortization of Capital.</i>				
E-92.	Amortization of franchises and patents -----				\$16 00
E-93.	Depreciation of plant and equipment -----				144,519 00
	a. Depreciation, production capital -----	\$42,722 10	\$33,872 08	\$27,420 05	
	b. Depreciation, transmission capital -----	32,622 03	25,806 01	22,147 67	
	c. Depreciation, distribution capital -----	50,899 74	46,953 71	41,421 19	
	d. Depreciation, general capital -----	933 88	1,321 99	2,518 39	
	Total general amortization of capital -----	\$125,309 99	\$107,953 79	\$93,507 30	\$144,535 00
	<i>Recapitulation of Expenses.</i>				
	Production expenses -----	\$250,431 95	\$65,695 12	\$58,436 87	\$90,262 00
	Transmission expenses -----	20,901 78	31,062 80	25,755 75	29,761 00
	Distribution expenses -----	92,250 03	124,375 97	110,597 75	130,147 00
	Commercial expenses -----	80,458 09	80,256 76	82,374 96	73,003 00
	General and miscellaneous expenses -----	152,526 47	159,126 72	166,913 12	137,458 00
	Taxes -----	45,093 09	67,789 31	81,361 91	78,569 00
	General amortization of capital -----	125,309 99	107,953 79	93,507 30	144,535 00
	Total operating expenses -----	\$769,808 97	\$636,053 91	\$618,947 66	\$683,735 00
E-103.	Uncollectible bills -----	4,595 75	4,868 85	4,800 00	8,458 00
	Grand total expenses..	\$774,394 72	\$640,922 76	\$623,747 66	\$692,193 00

There are a number of matters in connection with the operating expenses herein determined to which it will be well to draw attention. The operating expenses heretofore obtaining have been increased by reason of the order herein requiring the San Joaquin Corporation to

maintain all the transformers on its system and also to enable the corporation to take care of additional steam generator expenditures which it will be necessary to incur in connection with the additional electric energy herein assumed to be sold. The operating expenses have been decreased over the normal operating expenses heretofore incurred, by reason of the decrease in meter expense, due to the abolition of the maximum demand system in so far as agricultural power consumers are concerned. Substantial reductions have also been made in the expense hitherto charged to the account of "Railroad Commission Expense," for the reason that the expense shown for the year 1915 is abnormally high. A reduction has also been made in the item of new business expenses, for the reason that the new business expenses of San Joaquin Corporation have been unduly high in comparison with the amount of new business secured by the corporation and to be anticipated in the near future. On the other hand the commercial department salaries and expenses have been increased to a more normal amount.

Provision is also made under the head of "Operating Expenses" for amounts properly chargeable to maintenance in connection with the reconstruction of transmission and distribution lines in accordance with the provisions of chapter 499 of the Laws of 1911 and chapter 600 of the Laws of 1915.

4. *Depreciation annuity.*

The amount reasonably to be allowed as a depreciation annuity is shown in Table No. XX.

The annuity is computed on the 6 per cent sinking fund basis. The testimony shows that the depreciation reserve of the San Joaquin Corporation is regularly invested in plant, on which plant a return of 8 per cent is herein being allowed. In view of the return thus allowed on this fund, the contention of the San Joaquin Corporation that a return of only 4 per cent shall be assumed on the depreciation fund does not seem reasonable.

5. *Cost of service.*

The following table shows the cost of service of the San Joaquin Corporation's electric business, as shown by the evidence in these proceedings:

TABLE NO. XXII.
Cost of Service, San Joaquin Light and Power Corporation.

	General	Production	Transmis- sion	Sub-stations	Distribu- tion	Street lighting	Miscel- laneous	Service	Working capital	Total
Capital -----	\$784,658	\$4,160,610	\$1,704,529	\$355,298	\$2,367,070	\$49,713	\$32,182	\$466,980	\$133,500	\$10,054,540
Interest at 6 per cent.-----	\$47,079	\$249,637	\$102,272	\$21,318	\$142,024	\$2,983	\$1,978	\$28,019	\$10,680	\$548,181
Depreciation -----	16,939	23,195	28,259	6,242	46,806	2,138	891	20,064	-----	127,596
Maintenance -----	5,567	12,350	11,718	6,290	34,064	2,210	2,069	5,460	-----	74,161
General capital costs-----	-----	31,688	12,982	2,706	18,028	379	245	3,557	-----	*69,585
Subtotals -----	*\$69,585	\$316,870	\$155,231	\$36,556	\$240,922	\$7,708	\$5,136	\$57,100	-----	\$819,523
Operating expenses -----	-----	\$77,912	\$18,043	\$15,766	\$47,551	\$4,700	\$623	\$84,417	-----	\$249,012
General and miscellaneous ex- pense -----	-----	44,608	10,330	9,027	27,225	2,691	357	48,333	-----	†142,571
Subtotals -----	-----	\$122,520	\$28,373	\$24,793	\$74,776	\$7,391	\$980	\$132,750	-----	\$391,583
Total cost of service less taxes and uncollectible bills -----	-----	\$430,390	\$183,604	\$61,349	\$315,698	\$15,099	\$6,116	\$189,850	-----	\$1,211,106
Uncollectible bills -----	-----	-----	-----	-----	-----	-----	-----	-----	-----	7,267
Taxes at 5½ per cent.-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	67,509
Total cost of service-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	\$1,285,882
Profit at 2 per cent.-----	\$15,693	\$83,212	\$34,090	\$7,106	\$47,341	\$994	\$644	\$9,340	-----	\$182,727
Adjustment cost of general capital -----	-----	-----	-----	-----	-----	-----	-----	-----	-----	15,693
Uncollectible bills—adjustment -----	-----	-----	-----	-----	-----	-----	-----	-----	-----	1,191
Subtotal -----	-----	-----	-----	-----	-----	-----	-----	-----	-----	\$199,611
Taxes, 5½ per cent on profit-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	11,060
Subtotal, including taxes-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	\$210,671
Total cost, plus profit-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	\$1,496,493

*General capital cost prorated over other capital.

†Interest on working cash capital included in general and miscellaneous expense.

6. *Discriminations.*

The evidence herein shows that discrimination has existed to a considerable extent as to the rates charged to individual consumers in the same general class, particularly industrial power and commercial lighting consumers. These discriminations have been largely due to special contracts and to deviations from published rates. The rates herein established will be of uniform application and will eliminate all such discriminations.

The discriminations resulting from the varying applications of the maximum demand system of rating as applied to agricultural power consumers, will be eliminated by the substitution of the connected load rating system herein established.

7. *Agricultural power.*

I shall now discuss the various classes of service rendered by the San Joaquin Corporation with a brief reference, where necessary, to the existing rates and a statement of the rates herein established.

By far the largest number of complaints in these proceedings have been directed to the San Joaquin Corporation's agricultural power rates. These complaints were directed to the corporation's contracts for this class of service, the maximum demand system and the method of its application, and the rates under the San Joaquin Corporation's various types of agricultural power contracts. The complaints with reference to the provisions of the San Joaquin Corporation's contracts, and also with reference to the maximum demand system, have already been considered herein.

The following table shows, in summary form, the agricultural power rates of the San Joaquin Corporation, segregated into the standard flat rates and the colonization rates:

TABLE No. XXIII.

*Present Agricultural Power Rates of San Joaquin Light and Power Corporation—
Standard Flat Rates and Colonization Rates.*

STANDARD FLAT RATES.

- (a) Continuous use each month of the year. Service delivered at primary voltage of 11,000, 4,000 or 2,200, at company's option.
\$4.16 per month per horsepower of minimum demand.
Installations operated each month of the year, but restricted to certain hours of use, \$3.00 per month per horsepower of maximum demand.
- (b) Seasonal service: Restricted to certain months' use. Service delivered at 11,000, 4,000 or 2,200 volts at the company's option.

Period of year	Daily period of operation	Rate per horsepower per calendar month
February 1 to July 31 (6 months).....	24 hours	\$5 20
March 1 to July 31 (5 months).....	24 hours	5 55
April 1 to July 31 (4 months).....	24 hours	6 25
May 1 to July 31 (3 months).....	24 hours	7 50
June 1 to July 31 (2 months).....	24 hours	11 25
July 1 to July 31 (1 month).....	24 hours	22 50
February 1 to July 31 (6 months).....	Daylight hours	3 75
March 1 to July 31 (5 months).....	Daylight hours	4 00
April 1 to July 31 (4 months).....	Daylight hours	4 50
May 1 to July 31 (3 months).....	Daylight hours	5 50
June 1 to July 31 (2 months).....	Daylight hours	8 25
July 1 to July 31 (1 month).....	Daylight hours	16 50

- (c) Seasonal service: Restricted to certain months' use. Service delivered at 11,000, 4,000 or 2,200 volts at company's option.

Period of year	Daily period of operation	Rate per horsepower per calendar month
February 1 to September 30 (8 months).....	24 hours	\$5 46
March 1 to September 30 (7 months).....	24 hours	5 75
April 1 to September 30 (6 months).....	24 hours	6 25
May 1 to September 30 (5 months).....	24 hours	6 25
June 1 to September 30 (4 months).....	24 hours	6 25
July 1 to September 30 (3 months).....	24 hours	7 50
August 1 to September 30 (2 months).....	24 hours	11 25
September 1 to September 30 (1 month).....	24 hours	22 50
February 1 to September 30 (8 months).....	Daylight hours	3 94
March 1 to September 30 (7 months).....	Daylight hours	4 14
April 1 to September 30 (6 months).....	Daylight hours	4 50
May 1 to September 30 (5 months).....	Daylight hours	4 50
June 1 to September 30 (4 months).....	Daylight hours	4 50
July 1 to September 30 (3 months).....	Daylight hours	5 50
August 1 to September 30 (2 months).....	Daylight hours	8 25
September 1 to September 30 (1 month).....	Daylight hours	16 50

Minimum guarantee: The consumer shall pay for at least 75 per cent of the manufacturer's rated capacity of motors installed.

COLONIZATION RATES.

(1) Continuous use each month of the year:

Delivered at primary voltage of 11,000, 4,000 or 2,000 volts at company's option.

Installations under 20 horsepower, 2 cents per kilowatt hour used monthly.

Installations over 20 horsepower, 1½ cents per kilowatt hour used monthly.

Minimum charge: \$1.00 per month, per horsepower installed.

Minimum monthly bill: \$1.50.

Minimum term: The consumer must sign a five-year contract. The above rate, however, only continues for two years, at the end of which time the consumer is placed on the company's regular annual flat rate agricultural schedule.

(2) Seasonal service: Restricted to certain hours of use.

Delivered at 11,000, 4,000 or 2,000 volts at company's option.

Installations under 25 horsepower, 2½ cents per kilowatt hour used monthly.

Installations over 25 horsepower, 2 cents per kilowatt hour used monthly.

Minimum guarantee: eight, nine, ten or eleven months' use, \$1.50 per horsepower per month; seven months' use, \$1.75 per horsepower per month; six months' use, or less, \$2.00 per horsepower per month.

Minimum term: The consumer must sign a five-year contract. The above rate, however, only continues two years. For the remaining three years of his contract the consumer is placed on the company's regular annual flat rate schedule. Under this schedule the consumer is restricted to the following hours of use for the first two years of his contract:

January	-----	From 12:01 a.m. to 4:40 p.m.
February	-----	From 12:01 a.m. to 5:25 p.m.
March	-----	Continuously
April	-----	Continuously
May	-----	Continuously
June	-----	Continuously
July	-----	Continuously
August	-----	Continuously
September	-----	Continuously
October	-----	From 12:01 a.m. to 5:00 p.m.
November	-----	From 12:01 a.m. to 4:30 p.m.
December	-----	From 12:01 a.m. to 4:20 p.m.

A large number of farmers in these proceedings complained of the San Joaquin Corporation's agricultural power rates. These complainants insisted that with the prevailing prices of alfalfa it is impossible for them to make a profit under the existing rates for power. The evidence shows that in the year 1914, the price of alfalfa was lower than it had been for many years, but that during the year 1915 the price recovered somewhat. The evidence further shows that there are a large number of gas engines in the territory served by the San Joaquin Corporation, and that these engines are a very strong competitor of the San Joaquin Corporation. A number of farmers testified that if it were not for the five-year contracts which they had signed with the San Joaquin Corporation, they would take out their electric motors and install gasoline engines. The San Joaquin Corporation, in its brief, frankly admits the effectiveness of this competition and states that it does not desire any increase in its agricultural power rates, although the corporation claims that the present rates for agricultural power service are below the cost of service. It should be said, at this point, that the claim of the San Joaquin Corporation that it has an average investment of \$1,400.00 in distributing system for each agricultural power consumer and that its agricultural power rates are below the cost of service is not borne out by the evidence herein.

I have given very careful consideration to the question whether the \$50.00 per horsepower annual flat rate could be reduced with justice to the San Joaquin Corporation, and have reached the conclusion, after a detailed examination of the evidence herein, that a fair and reasonable rate for this service would be \$42.30 per horsepower of connected load per annum.

I desire, however, to draw specific attention to the fact that by far the largest number of agricultural power consumers under this system do not need continuous service during the full twelve months, and that they ordinarily do not use electric energy for a term in excess of from seven to nine months. I am of the opinion that nearly all the agricultural power consumers under this system would effect a substantial saving by taking a seasonal contract, permitting them to use power for from seven to nine months. Although, if the San Joaquin Corporation must stand ready to deliver electric energy for pumping purposes during each day of the year, the rate for such service must necessarily be relatively high, the needs of the farmer can, with entire justice to the San Joaquin Corporation, be taken care of by the much cheaper seven to nine months seasonal rate. Just and reasonable seasonal rates for agricultural power service, sufficiently flexible so that they can be used advantageously by the farmer, will be established herein.

Any farmer who at the present time is taking service under the annual \$50.00 per horsepower flat rate may change over to one of the seasonal rates herein established, if he so desires.

The following rates are hereby found to be just and reasonable rates to be charged by San Joaquin Corporation for agricultural power service:

TABLE No. XXIV.

Agricultural Service, Contract Flat Rates.

Applicable to all agricultural or rural power and other service limited only by the demand upon the company's system. Service will normally be supplied at 110 or 220 volts.

One month's service.....	\$7 00 per horsepower
Two months' service.....	12 15 per horsepower
Three months' service.....	16 45 per horsepower
Four months' service.....	20 25 per horsepower
Five months' service.....	23 65 per horsepower
Six months' service.....	26 80 per horsepower
Seven months' service.....	29 75 per horsepower
Eight months' service.....	32 50 per horsepower
Nine months' service.....	35 10 per horsepower
Ten months' service.....	37 60 per horsepower
Eleven months' service.....	40 00 per horsepower
Twelve months' service.....	42 30 per horsepower

The above flat rates are based upon the connected load in motors or other utilization equipment which can be connected at any one time to the company's supply system. Under normal conditions meters will not be installed by the company on strictly flat rate business, but at the consumer's request demand indicating and watt hour meters will be supplied at a charge of \$7.50 per year or fraction thereof, and the flat rate charges per horsepower of connected load will be readjusted on the basis of 94 per cent demand factor.

The minimum bill under these rates will be the flat rate for one horsepower.

TABLE No. XXIV—Continued.

Agricultural Service, Noncontract Flat Rates.

Applicable to all agricultural or rural power and other service limited only by the demand upon the company's system. Service will normally be supplied at 110 or 220 volts.

First month's service.....	\$7 00 per horsepower
Second month's service.....	5 15 per horsepower
Third month's service.....	4 30 per horsepower
Fourth month's service.....	3 80 per horsepower
Fifth month's service.....	3 40 per horsepower
Sixth month's service.....	3 15 per horsepower
Seventh month's service.....	2 95 per horsepower
Eighth month's service.....	2 75 per horsepower
Ninth month's service.....	2 60 per horsepower
Tenth month's service.....	2 50 per horsepower
Eleventh month's service.....	2 40 per horsepower
Twelfth month's service.....	2 30 per horsepower

The consumer taking service under these rates will be required to pay for the cost of the initial service connection, and also the cost of any subsequent disconnections and reconnections made at his request.

The above flat rates are based upon the connected load in motors or other utilization equipment which can be connected at any one time to the company's supply system. Under normal conditions meters will not be installed by the company on strictly flat rate business, but at the consumer's request demand indicating and watt hour meters will be supplied at a charge of \$7.50 per year or fraction thereof and the flat rate charges per horsepower of connected load will be readjusted on the basis of 94 per cent demand factor.

The minimum bill under these rates will be the flat rate for one horsepower.

Agricultural Service, Meter Rates.

Applicable to all agricultural or rural power and other service limited only by the demand upon the company's system. Service will normally be supplied at 110 or 220 volts.

CONTRACT BASIS.

Demand charge for one month's service.....	\$4 50 per horsepower
Demand charge for two months' service.....	7 50 per horsepower
Demand charge for three months' service.....	9 80 per horsepower
Demand charge for four months' service.....	11 75 per horsepower
Demand charge for five months' service.....	13 45 per horsepower
Demand charge for six months' service.....	15 00 per horsepower
Demand charge for seven months' service.....	16 40 per horsepower
Demand charge for eight months' service.....	17 70 per horsepower
Demand charge for nine months' service.....	18 90 per horsepower
Demand charge for ten months' service.....	20 00 per horsepower
Demand charge for eleven months' service.....	21 05 per horsepower
Demand charge for twelve months' service.....	22 05 per horsepower

To the demand charge, which is payable in equal monthly installments, shall be added the following energy charge: Energy charge, \$.005 per kilowatt hour.

TABLE No. XXIV—Concluded.

NONCONTRACT BASIS.

Demand charge for first month's service.....	\$4 50 per horsepower.
Demand charge for second month's service.....	3 00 per horsepower
Demand charge for third month's service.....	2 30 per horsepower
Demand charge for fourth month's service.....	1 95 per horsepower
Demand charge for fifth month's service.....	1 70 per horsepower
Demand charge for sixth month's service.....	1 55 per horsepower
Demand charge for seventh month's service.....	1 40 per horsepower
Demand charge for eighth month's service.....	1 30 per horsepower
Demand charge for ninth month's service.....	1 20 per horsepower
Demand charge for tenth month's service.....	1 10 per horsepower
Demand charge for eleventh month's service.....	1 05 per horsepower
Demand charge for twelfth month's service.....	1 00 per horsepower

To the demand charge shall be added the following energy charge: Energy charge, \$.005 per kilowatt hour.

The consumer taking service under noncontract rates will be required to pay for the cost of the initial service connection, and also the cost of any subsequent disconnections or reconnections made at his request.

The demand charges under this schedule are based on the connected load in motors or other utilization equipment which can be connected at any one time to the company's supply system, and the meters regularly supplied are of the recording watt hour type. At the consumer's request, however, the company will furnish and install demand indicating instruments at a rate of \$3.00 per year or fraction thereof, and base the demand charge upon the measured monthly maximum demand, in which case the demand charges will be readjusted on the basis of 94 per cent demand factor.

The minimum bill will be the demand charge for one horsepower.

8. *Oil well power.*

No complaint was made in these proceedings with reference to San Joaquin Corporation's oil well power rates.

I find that the following rates are just and reasonable rates to be charged by the San Joaquin Corporation for oil well power service:

TABLE No. XXV.

Special Oil Fields Rate, Metered Service.

Applicable to all power service supplied, for or in connection with the development and operation of oil wells or oil production equipment. Service will be furnished either at 220 or 440 volts.

\$2.75 per month per kilowatt of maximum demand, to which charge shall be added an energy charge of one-half ($\frac{1}{2}$) cent per kilowatt hour for all electric energy supplied.

Under this rate demand indicators and watt hour meters will in all cases be installed and maintained by the company at the point of delivery.

9. *Mining power.*

No complaint was made in these proceedings with reference to the San Joaquin Corporation's mining power rates.

The industrial power rates herein established will be applicable to the mining power business, so that it is unnecessary to establish a special mining power rate.

10. *Industrial power.*

No complaint was made with reference to the industrial power rates of the San Joaquin Corporation. An examination of these rates, particularly of the special contracts and deviations from published rates, however, shows that considerable discrimination exists with reference to the rates for this class of service as between individual consumers. These discriminations will be eliminated by the rates herein established.

I find that the following rates are just and reasonable rates to be charged by the San Joaquin Corporation for industrial power service:

TABLE No. XXVI.

General Power Rate, Metered Service

Applicable to all industrial, commercial and other power installations of not more than 20 horsepower installed capacity receiving energy at 110 or 220 volts at the consumer's option. Single phase or three phase service at option of company.

4 cents per kilowatt hour for first 200 kilowatt hours consumed during any month.
2 cents per kilowatt hour for all energy used during any month in excess of 200 kilowatt hours.

Minimum monthly charge, \$1.00 per horsepower.

Minimum monthly bill, \$1.00.

Industrial Power Rates, Metered Service.

Applicable to all classes of power installations not otherwise specifically provided for in separate schedules.

Installations of less than 20 horsepower.

\$1.50 per month per horsepower, connected to which charge shall be added an energy charge of one-half ($\frac{1}{2}$) cent per kilowatt hour for all electric energy supplied.

Minimum monthly bill, \$5.00.

Installations in excess of 20 horsepower.

\$2.50 per month per kilowatt of measured maximum demand, to which charge shall be added an energy charge of four-tenths of one cent (\$.004) per kilowatt hour for all energy supplied.

Minimum monthly bill, \$20.00.

On small installations where the demand charge is based on the connected load ordinary recording watt-hour meters are regularly supplied by the company. At the consumer's request, however, demand indicating instruments will be supplied at an additional charge of 25 cents per month and in which case the rate will be based on the measured monthly maximum demand and the demand charge will be readjusted on the basis of 79 per cent demand factor.

11. *Commercial lighting.*

Considerable complaint was made against the San Joaquin Corporation's commercial lighting rates. These complaints were directed both against the reasonableness of the rates now in effect and the method of determining the maximum demand.

Provision for the elimination of the complaints with reference to the maximum demand system has already been made. As hereinbefore provided, the maximum demand must be a demand for the period for which bills are normally paid and not for the entire year. Provision

has already been made that the maximum demand in this class of service must be taken by continuous readings of at least fifteen minutes.

A careful study of the cost of service shows that the rates heretofore in effect for this class of service have been too high and that the rates should be reduced. The rates at present charged for commercial lighting service appear in the same schedule of the San Joaquin Corporation which applies also to residential lighting service. These rates appear in Table No. XXVII, under the head of Residence Lighting.

The rates to be charged by the San Joaquin Light and Power Corporation for commercial lighting service will appear in Table No. XXVIII, showing lighting rates herein established.

12. *Residence lighting.*

Some complaint was also made with reference to the reasonableness of the residence lighting rates of the San Joaquin Corporation. The Commission's attention was further drawn to the fact that under the San Joaquin Corporation's rate schedules on file with this Commission, the residence lighting rates should be determined in accordance with the maximum demand system. The San Joaquin Corporation, however, testified that in actual practice it did not apply the maximum demand system to its residence lighting service.

I find that there is no justification for the maximum demand system in connection with the residence lighting business of the San Joaquin Corporation and that a proper schedule of residence lighting rates to be charged by the San Joaquin Corporation should be based on a block system of charges.

The following table shows the lighting rates of San Joaquin Corporation now in effect:

TABLE No. XXVII.

Present Lighting Rates of San Joaquin Light and Power Corporation.

Based on the amount of energy consumed each month per kilowatt of maximum demand, except in the case of domestic consumers, where the maximum rate in each schedule is charged.

Oil Districts of Western Kern County.

First 60 k.w. hours, 10 cents per k.w. hour.
Next 150 k.w. hours, 5 cents per k.w. hour. (Schedule No. 1.)
Over 210 k.w. hours, 3 cents per k.w. hour.

Mariposa District.

First 45 k.w. hours, 9 cents per k.w. hour.
Next 150 k.w. hours, 4 cents per k.w. hour. (Schedule No. 4.)
Over 195 k.w. hours, 2 cents per k.w. hour.

Balance of Territory.

First 60 k.w. hours, 8 cents per k.w. hour.
Next 150 k.w. hours, 4 cents per k.w. hour. (Schedule No. 5.)
Over 210 k.w. hours, 2 cents per k.w. hour.

Discounts: The following discounts allowed on monthly bills:

- \$50.00 to \$100.00 (inclusive), 10 per cent discount.
- \$100.01 to \$200.00 (inclusive), 15 per cent discount.
- \$200.01 to \$300.00 (inclusive), 20 per cent discount.
- Over \$300.00, 25 per cent discount.

NOTE.—No discounts allowed for service supplied in connection with the development of oil wells, but optional flat rate of 40 cents per 60 watt lamp connected is offered. (Schedules Nos. 2 and 3.)

Minimum charge, all districts \$1.00 per meter per month.

Terms: Contracts required only in cases where service extensions are necessary.

Electric sign lighting: The above energy rates apply to electric sign lighting in the district named. Installations in excess of 325 watts must be on separate meters. Minimum charge: \$6.00 per kilowatt of maximum demand. (Schedules Nos. 6, 7 and 8.)

The Merchants Association of Fresno drew attention to the minimum of \$1.00 per month charged by the San Joaquin Corporation in connection with its residence lighting service. After careful examination of the evidence herein, I have reached the conclusion that a reasonable minimum for residence lighting service charged by San Joaquin Corporation is 75 cents per meter per month.

I find that the following rates are just and reasonable rates to be charged by San Joaquin Corporation for lighting service:

TABLE No. XXVIII.

General Domestic Lighting Rate, Metered Service.

Applicable to domestic and small commercial lighting, heating and power installations of less than five kilowatt capacity.

First 20 kilowatt hours per month-----	8 cents per kilowatt hour
Over 20 kilowatt hours per month-----	4 cents per kilowatt hour
Minimum monthly charge, 75 cents per meter.	

General Commercial Lighting Rate, Metered Service.

Applicable to all commercial, industrial, sign outline and other lighting installations, and to small power and appliances used in connection with lighting service.

\$2.25 per month per kilowatt of measured maximum demand, to which charge shall be added an energy charge of one (1) cent per metered kilowatt hour for all electric energy consumed.

Minimum monthly bill, \$2.50.

Watt demand indicators and watt hour meters will in all cases be installed and maintained by the company at its own expense under this rate.

13. *Street lighting.*

No complaint was made in these proceedings with reference to municipal street lighting rates, but the Commission's attention was directed to the rate charged in connection with public lighting in the County Courthouse Park in Fresno. It was shown that the public lighting service in connection with the Courthouse Park is being paid for at a much higher rate than public lighting in the streets of the various

municipalities served by the San Joaquin Corporation. This discrimination will be eliminated by the reduction in the rate charged to the county of Fresno in connection with the Courthouse Park.

I find that the following rates are just and reasonable rates to be charged by San Joaquin Corporation for public out of door lighting service:

TABLE No. XXIX.

Public Outdoor Lighting Service.

This schedule of rates applies to all street, highway and other public outdoor lighting coming under the following classes of service and includes installation and all maintenance and operation and lamp renewals necessary for such service.

1. *Luminous Arcs: Rate—*
\$33.00 per lamp per year plus 45 cents per 100 lamp hours; payable monthly.
2. *Inclosed Carbon Arcs: Rate—*
\$31.80 per lamp per year plus 45 cents per 100 lamp hours.
3. *Series or Multiple 100 Watt Tungsten Incandescent Lamps—*
\$16.20 per lamp per year plus 15 cents per 100 lamp hours; payable monthly.
4. *Series or Multiple 60 Watt Tungsten Incandescent Lamps—*
\$13.40 per lamp per year plus 10 cents per lamp hour; payable monthly.

In addition to the rates hereinbefore established, the order herein will establish additional rates for special substation service and for special transmission service.

14. *Contract with Mt. Whitney Power and Electric Company.*

The Commission's attention was drawn by the Mt. Whitney Power and Electric Company to a contract dated March 5, 1912, between San Joaquin Light and Power Corporation and Tulare County Power Company and to a supplemental agreement dated April 7, 1915, between the same parties. When the Mt. Whitney Company acquired the properties of Tulare County Power Company, it assumed this contract.

The agreement of March 5, 1912, provided that the Tulare County Power Company should receive such electric energy as it might require, not to exceed 1,500 kilowatts, and pay for the same at the rate of \$3.33½ per calendar month for each horsepower furnished, with a minimum payment of \$3,333.33 per month in any event.

The Mt. Whitney Company contends that this is an unreasonable and unnecessary contract from its point of view, and draws attention to the fact that its production system is at the present time sufficient to take care of its entire load during the entire year. Although the Mt. Whitney Company would pay for the electric energy supplied under this contract, under ideal conditions, approximately \$.0069 per kilowatt hour, the Mt. Whitney Company draws attention to the fact that it can generate additional electric energy in its Kaweah Plant No. 3 at the additional cost of only the tax paid to the Federal Government, amounting to ½ mill per kilowatt hour, while in the summer time additional

electric energy can be generated in the Mt. Whitney Company's steam plants.

Exhibit No. 1, *in re* Tulare County Power Company contract, presented by the San Joaquin Corporation, shows that the revenue derived from the San Joaquin Corporation under this contract, under the most ideal conditions, would be only \$478.98 in excess of the cost of service and that under ordinary conditions the revenue would be materially less than the cost of service. It follows that this contract is of advantage neither to the San Joaquin Corporation nor to the Mt. Whitney Company.

In my opinion, this contract should be abrogated and should be replaced by a contract providing for reciprocal service to be rendered by each of the parties to the other party in times of shortage of electric energy on the part of either party. The Commission will not pursue this particular subject further at the present time, but reserves the right to go into the matter further if it should become necessary.

Attention should be directed to the fact that in computing the revenue to be derived by the San Joaquin Corporation from the rates herein established, the Tulare County Power Company contract is assumed to be non-existent.

X.

Rules and Regulations.

In view of the rates herein established it will be necessary for the San Joaquin Corporation to recast all its present rules and regulations particularly with reference to contracts, waiver of damages, transformers and other matters relating to the terms and conditions under which electric service shall be supplied.

The San Joaquin Corporation shall accordingly submit to the Commission revised terms and conditions in conformity with the findings herein and with the rules laid down by the Commission in its Decision No. 2879. The following rules and regulations, however, have been considered in connection with the establishment of the rates herein prescribed, and shall be incorporated by the San Joaquin Corporation in the rules and regulations which are to be submitted to the Commission as hereinbefore provided.

I find as a fact that the following rules and regulations are just and reasonable rules and regulations to be established and enforced by the

San Joaquin Corporation in connection with electric service to be supplied by it under the rates herein established:

Rules and Regulations.

1. *Application for service:* The company will require each prospective consumer to make application in writing for the service desired, such application setting forth the location of the premises to be served, the purpose for which the service is to be used, a description of the electrical equipment installed, the name and address of the person responsible for the payment of the bills and whether applicant is the owner, agent or tenant of the premises upon which the service is to be used.
2. *Contracts:* Contracts for a period of three years will be required in the first instance for agricultural service under conditions which require a material investment by the company in service facilities.
3. *Rates:* The rates to be charged by and paid to the company for electric energy and service shall be the rates legally in effect and on file with the Railroad Commission. Complete schedules of all rates legally in effect will be kept at all times in each of the company's local offices where they will be available for public inspection. Where there are two or more rates or schedules applicable to any class of service the consumer, at the time he makes application to the company for service, must designate which rate or schedule he desires, and the rate or schedule so designated shall remain in effect until changed by thirty days' written notice by the consumer specifying which new rate or schedule is desired. The rates and minimum charges set forth in the effective rate schedules are based upon the load connected to the company's supply system through one meter. Where sub-meters or secondary meters are desired by the consumer such meters will be charged for separately on the monthly rental basis.
4. *Limitation of demand:* Double throw switches or other approved demand limiting devices will be permitted to limit the demand which can be created at any one time on the company's supply system through the operation of the consumer's electrical equipment.
5. *Meters:* All meters will be furnished and installed by the company at its own expense without any additional charge from the rates set forth in its effective rate schedules, except in cases where special metering facilities are desired by the consumer. All meters will be tested at the time of their installation and no meter will be placed in service or allowed to remain in service which has an error of registration in excess of 2 per cent under the conditions of normal operation. Upon giving the company at least five days' notice, the consumer shall have the right at any time to require the company to test his service meter in his presence, or, if he so desires, in the presence of an expert or other representative appointed by him, provided, however, that if special tests are required by the consumer more often than once in six months, a reasonable charge shall be made for such additional tests.

I submit the following form of order:

ORDER.

Public hearings having been held in the above entitled proceedings, and said proceedings having been submitted and being now ready for decision, the Railroad Commission hereby makes the following findings of fact:

(1) The Railroad Commission finds that the rates, rules, regulations, contracts, and practices of the San Joaquin Light and Power Corporation are unjust and unreasonable in so far as they differ from the rates, rules, regulations, contracts, and practices herein established.

(2) The Railroad Commission hereby finds that the rates, rules, regulations, contracts, and practices herein established are just and reasonable rates, rules, regulations, contracts, and practices.

Basing its order on the foregoing findings of fact, and on each statement of fact contained in the opinion which precedes this order,

It is hereby ordered, as follows:

1. San Joaquin Light and Power Corporation is hereby ordered to establish and file with the Railroad Commission on or before April 20, 1916, the following rates for the respective classes of service specified, which rates are found to be just and reasonable rates:

SCHEDULE No. 1.

General Domestic Lighting Rate, Metered Service.

Applicable to domestic and small commercial lighting, heating and power installations of less than five kilowatt capacity.

First 20 kilowatt hours per month-----8 cents per kilowatt hour
Over 20 kilowatt hours per month-----4 cents per kilowatt hour
Minimum monthly charge, 75 cents per meter.

SCHEDULE No. 2.

General Commercial Lighting Rate, Metered Service.

Applicable to all commercial, industrial, sign outline and other lighting installations, and to small power and appliances used in connection with lighting service.

\$2.25 per month per kilowatt of measured maximum demand, to which charge shall be added an energy charge of one (1) cent per metered kilowatt hour for all electric energy consumed.

Minimum monthly bill, \$2.50.

Watt demand indicators and watt hour meters will in all cases be installed and maintained by the company at its own expense under this rate.

SCHEDULE No. 3.

Public Outdoor Lighting Service.

This schedule of rates applies to all street, highway and other public outdoor lighting coming under the following classes of service and includes installation and all maintenance and operation and lamp renewals necessary for such service.

1. *Luminous Arcs: Rate—*
\$33.00 per lamp per year plus 45 cents per 100 lamp hours; payable monthly.
2. *Inclosed Carbon Arcs: Rate—*
\$31.80 per lamp per year plus 45 cents per 100 lamp hours.
3. *Series or Multiple 100 Watt Tungsten Incandescent Lamps—*
\$16.20 per lamp per year plus 15 cents per 100 lamp hours; payable monthly.
4. *Series or Multiple 60 Watt Tungsten Incandescent Lamps—*
\$13.40 per lamp per year plus 10 cents per lamp hour; payable monthly.

SCHEDULE No. 4.

Agricultural Service, Contract Flat Rates.

Applicable to all agricultural or rural power and other service limited only by the demand upon the company's system. Service will normally be supplied at 110 or 220 volts.

One month's service.....	\$7 00 per horsepower
Two months' service.....	12 15 per horsepower
Three months' service.....	16 45 per horsepower
Four months' service.....	20 25 per horsepower
Five months' service.....	23 65 per horsepower
Six months' service.....	26 80 per horsepower
Seven months' service.....	29 75 per horsepower
Eight months' service.....	32 50 per horsepower
Nine months' service.....	35 10 per horsepower
Ten months' service.....	37 60 per horsepower
Eleven months' service.....	40 00 per horsepower
Twelve months' service.....	42 30 per horsepower

The above flat rates are based upon the connected load in motors or other utilization equipment which can be connected at any one time to the company's supply system. Under normal conditions meters will not be installed by the company on strictly flat rate business, but at the consumer's request demand indicating and watt hour meters will be supplied at a charge of \$7.50 per year or fraction thereof, and the flat rate charges per horsepower of connected load will be readjusted on the basis of 94 per cent demand factor.

The minimum bill under these rates will be the flat rate for one horsepower.

SCHEDULE No. 5.

Agricultural Service, Noncontract Flat Rates.

Applicable to all agricultural or rural power and other service limited only by the demand upon the company's system. Service will normally be supplied at 110 or 220 volts.

First month's service.....	\$7 00 per horsepower
Second month's service.....	5 15 per horsepower
Third month's service.....	4 30 per horsepower
Fourth month's service.....	3 80 per horsepower
Fifth month's service.....	3 40 per horsepower
Sixth month's service.....	3 15 per horsepower
Seventh month's service.....	2 95 per horsepower
Eighth month's service.....	2 75 per horsepower
Ninth month's service.....	2 60 per horsepower
Tenth month's service.....	2 50 per horsepower
Eleventh month's service.....	2 40 per horsepower
Twelfth month's service.....	2 30 per horsepower

The consumer taking service under these rates will be required to pay for the cost of the initial service connection, and also the cost of any subsequent disconnections or reconnections made at his request.

The above flat rates are based upon the connected load in motors or other utilization equipment which can be connected at any one time to the company's supply system. Under normal conditions meters will not be installed by the company on strictly flat rate business, but at the consumer's request demand indicating and watt hour meters will be supplied at a charge of \$7.50 per year or fraction thereof and the flat rate charges per horsepower of connected load will be readjusted on the basis of 94 per cent demand factor.

The minimum bill under these rates will be the flat rate for one horsepower.

SCHEDULE No. 6.

Agricultural Service, Meter Rates.

Applicable to all agricultural or rural power and other service limited only by the demand upon the company's system. Service will normally be supplied at 110 or 220 volts.

CONTRACT BASIS.

Demand charge for one month's service.....	\$4 50 per horsepower
Demand charge for two months' service.....	7 50 per horsepower
Demand charge for three months' service.....	9 80 per horsepower
Demand charge for four months' service.....	11 75 per horsepower
Demand charge for five months' service.....	13 45 per horsepower
Demand charge for six months' service.....	15 00 per horsepower
Demand charge for seven months' service.....	16 40 per horsepower
Demand charge for eight months' service.....	17 70 per horsepower
Demand charge for nine months' service.....	18 90 per horsepower
Demand charge for ten months' service.....	20 00 per horsepower
Demand charge for eleven months' service.....	21 05 per horsepower
Demand charge for twelve months' service.....	22 05 per horsepower

To the demand charge, which is payable in equal monthly installments, shall be added the following energy charge: Energy charge, \$0.005 per kilowatt hour.

NONCONTRACT BASIS.

Demand charge for first month's service.....	\$4 50 per horsepower
Demand charge for second month's service.....	3 00 per horsepower
Demand charge for third month's service.....	2 30 per horsepower
Demand charge for fourth month's service.....	1 95 per horsepower
Demand charge for fifth month's service.....	1 70 per horsepower
Demand charge for sixth month's service.....	1 55 per horsepower
Demand charge for seventh month's service.....	1 40 per horsepower
Demand charge for eighth month's service.....	1 30 per horsepower
Demand charge for ninth month's service.....	1 20 per horsepower
Demand charge for tenth month's service.....	1 10 per horsepower
Demand charge for eleventh month's service.....	1 05 per horsepower
Demand charge for twelfth month's service.....	1 00 per horsepower

To the demand charge shall be added the following energy charge: Energy charge, \$0.005 per kilowatt hour.

The consumer taking service under noncontract rates will be required to pay for the cost of the initial service connection, and also the cost of any subsequent disconnections or reconnections made at his request.

The demand charges under this schedule are based on the connected load in motors or other utilization equipment which can be connected at any one time to the company's supply system, and the meters regularly supplied are of the recording watt hour type. At the consumer's request, however, the company will furnish and install demand indicating instruments at a rate of \$3.00 per year or fraction thereof, and base the demand charge upon the measured monthly maximum demand, in which case the demand charges will be readjusted on the basis of 94 per cent demand factor.

The minimum bill will be the demand charge for one horsepower.

SCHEDULE No. 7.

Special Oil Fields Rate, Metered Service.

Applicable to all power service supplied for or in connection with the development and operation of oil wells or oil production equipment.

Service will be furnished either at 220 or 440 volts.

\$2.75 per month per kilowatt of maximum demand to which charge shall be added an energy charge of one-half ($\frac{1}{2}$) cent per kilowatt hour for all electric energy supplied.

Under this rate demand indicators and watt hour meters will in all cases be installed and maintained by the company at the point of delivery.

SCHEDULE No. 8.

General Power Rate, Metered Service

Applicable to all industrial, commercial and other power installations of not more than 20 horsepower installed capacity receiving energy at 110 or 220 volts at the consumer's option. Single phase or three phase service at option of company.

4 cents per kilowatt hour for first 200 kilowatt hours consumed during any month.
2 cents per kilowatt hour for all energy used during any month in excess of 200 kilowatt hours.

Minimum monthly charge, \$1.00 per horsepower.

Minimum monthly bill, \$1.00.

SCHEDULE No. 9.

Industrial Power Rates, Metered Service.

Applicable to all classes of power installations not otherwise specifically provided for in separate schedules.

Installations of less than 20 horsepower.

\$1.50 per month per horsepower, connected to which charge shall be added an energy charge of one-half ($\frac{1}{2}$) cent per kilowatt hour for all electric energy supplied.

Minimum monthly bill, \$5.00.

Installations in excess of 20 horsepower.

\$2.50 per month per kilowatt of measured maximum demand, to which charge shall be added an energy charge of four-tenths of one cent (\$.004) per kilowatt hour for all energy supplied.

Minimum monthly bill, \$20.00.

On small installations where the demand charge is based on the connected load ordinary recording watt hour meters are regularly supplied by the company. At the consumer's request, however, demand indicating instruments will be supplied at an additional charge of 25 cents per month, in which case the rate will be based on the measured monthly maximum demand and the demand charge will be readjusted on the basis of 79 per cent demand factor.

SCHEDULE No. 10.

Substation Service Rate, Metered Service.

Applicable to large consumers receiving energy directly from the company's substations.

\$2.70 per month per kilowatt of measured maximum demand to which charge should be added an energy charge of one-quarter ($\frac{1}{4}$) cent per kilowatt hour for all electric energy supplied.

Monthly minimum charge, \$50.00.

Under this rate, watt demand indicators, graphic recording meters, or other demand indicating or recording instruments and watt hour meters will in all cases be installed and maintained by the company at the point of delivery.

SCHEDULE No. 11.

Transmission Service Rate, Metered Service.

Applicable to large consumers receiving energy directly from the company's transmission lines at the transmission line voltage.

\$2.50 per month per kilowatt of measured maximum demand, to which charge shall be added an energy charge of two-tenths (2-10) cent per kilowatt hour for all electric energy supplied.

Monthly minimum charge, \$1.00.

Under this rate, watt demand indicators, graphic recording meters, or other demand indicating or recording instruments and watt hour meters will in all cases be installed and maintained by the company at the point of delivery.

2. San Joaquin Light and Power Corporation is hereby directed to prepare and file with the Railroad Commission on or before April 20, 1916, revised forms of agricultural power contracts complying with the directions contained in the opinion which precedes this order.

3. San Joaquin Light and Power Corporation is hereby ordered to establish and file with the Railroad Commission on or before April 20, 1916, rules and regulations in accordance with the directions contained in the opinion which precedes this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of April, 1916.

 DECISION No. 3242.

J. P. MELCHER ET AL.

vs.

MT. WHITNEY POWER AND ELECTRIC COMPANY.

Case No. 654.

A. C. ROSENTHAL ET AL.

vs.

MT. WHITNEY POWER AND ELECTRIC COMPANY.

Case No. 750.

IN THE MATTER OF THE APPLICATION OF MT. WHITNEY POWER AND ELECTRIC COMPANY FOR AN ORDER ESTABLISHING JUST AND REASONABLE RATES, RULES, REGULATIONS, CONTRACTS, AND PRACTICES TO BE CHARGED AND OBSERVED BY SAID COMPANY.

 Application No. 1673.

Decided April 6, 1916.

The consolidated complaints herein attack particularly defendant's agricultural power rates and the forms of contracts incident thereto; however, all rules, regulations, rates, and practices are considered. A valuation is made of defendant's electric properties in which allowances for franchises, going concern and water right values are given particular attention.

Contracts: That a utility has no right to require the signing of a contract as a condition precedent to service except under unusual or abnormal conditions such as a heavy expenditure on the part of the utility to serve individual consumers where the early discontinuance of service would occasion considerable loss to the company. That such conditions prevail on the system of defendant, and accordingly it is entitled to require the signing of a contract, provided all such contracts shall contain a statement to the effect that, after proper proceedings, should conditions warrant, the Commission may change or abolish same upon fair and equitable conditions to the utility. Contracts for municipal service also found reasonable; however, with the two exceptions mentioned, defendant directed to discontinue the practice of requiring the signing of contracts before rendering service.

Term: Three years held to be a reasonable time for the initial term of such contracts, after which no renewal shall be required, consumers being privileged to receive service from year to year thereafter until service is discontinued at the end of any one year upon thirty days' written notice.

Lien on Lands: Such contracts shall not constitute a lien upon the lands or property of consumers. Clause granting company a right of way over the property of consumers is eliminated from such contracts, as is also a clause to the effect that the consumer waives all claims for damages which might arise against the company. Contracts to contain a clause to the effect that consumers may use the energy for other than pumping purposes during the time that pumps are not in use.

Maximum Demand: That rates based on the connected load are far more just and equitable than the maximum demand system, particularly to the smaller consumers; large installations requiring a rate based on maximum demand shall contemplate the installation of a meter recording the maximum demand over a period of not less than fifteen minutes.

Interest on Unpaid Bills: Defendant charges an interest rate of 1 per cent per month on unpaid bills, applying to agricultural power contracts only. This interest rate is held discriminatory and its elimination directed.

Transformers: Defendant hereafter to install all transformers at its own expense, and suggestion made that the company take over all transformers at present owned by its consumers.

Valuation: The sum of \$4,886,197.00 is found to be the fair value of the property of defendant in connection with the present proceedings. Depreciation annuity figured on the 6 per cent sinking fund basis is fixed at \$97,339.00.

Franchises: Defendant claims a value for its franchises in excess of \$150,000.00, the actual cost of which was found to be slightly over \$800.00.

Held, That when the public grants privileges to a utility it can not be expected to pay rates permitting a return upon such privileges, granted without cost but thereafter capitalized by the recipient thereof. Other than the actual cost, no value is allowed under this head. Numerous court and Commission cases bearing out this contention, cited.

Going Concern Value: The evidence showing that defendant has earned a sum sufficient to cover operating expenses, depreciation, return upon the investment and has in addition paid dividends upon its stock amounting to 93 per cent of the cash invested therein, it would appear that all possible losses have been made good, accordingly no allowance is made for going concern value other than the value allowed for the tangible properties of the company.

Water Rights: Defendant claims a value for water rights based on a comparison of the cost to generate energy by steam and a computation by the Commission showing that under such a comparison its water rights have a negative value instead, no allowance, other than the actual cost, is made under this head.

Rate of Return: Upon the established valuation a return of 8 per cent is allowed, amounting to \$387,295.76 annually.

Rates: Present agricultural power rate of \$50.00 per horsepower of maximum demand annual rate is reduced to \$42.30 per horsepower based on connected load. Contract rates for lesser periods and non-contract rates for this class of service also established. Residence lighting rates are also reduced from 10 cents per kilowatt hour to a block system of charges containing on initial rate of 8 cents per kilowatt hour and the monthly minimum is also reduced from \$1.00 to 75 cents. New schedules to become effective April 20, 1916, as is also a revised set of rules and regulations established by the Commission in accordance with its general rules laid down in Decision No. 2879 and the findings contained in the present order.

George H. Woodruff and C. L. Russell, for Complainants.

Farnsworth & McClure, for Mt. Whitney Power and Electric Company.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

These proceedings place in issue all the rates, rules, regulations, contracts, and practices of Mt. Whitney Power and Electric Company. By consent of all parties, these proceedings were consolidated for hearing and decision.

The amended complaint in Case No. 654 is signed by 41 consumers or intending consumers of electric energy from Mt. Whitney Power and Electric Company, hereinafter called the Mt. Whitney Company. Complainants allege that they are using or intend to use electric energy from the Mt. Whitney Company for the purpose of pumping water for irrigation. Twenty-five complainants live in and about McFarland, Kern County, five in and about Delano, Kern County, and eleven in Los Angeles and other places. The complaint alleges, in effect, that the Mt. Whitney Company has compelled all of its patrons of electric energy for pumping water for agricultural purposes to sign five-year contracts as conditions precedent to service; that the present flat rate of \$50.00 per horsepower per year for electric energy used for pumping water for agricultural purposes, as well as the other flat rates and meter rates of the Mt. Whitney Company, are unjust and unreasonable; that the method of measuring the maximum demand of pumping installations as prescribed by the contracts of the Mt. Whitney Company is unjust and unreasonable; that the provisions of the contracts of the Mt. Whitney Company with reference to waiver of damages by the consumer are unjust and unreasonable; that the provisions of the contracts of the Mt. Whitney Company for limiting the use of electric energy sold to the consumer by the Mt. Whitney Company are unjust and unreasonable; and that the provisions of the contracts of the Mt. Whitney Company providing that a prospective consumer must pay the expense of installing and maintaining all transformers are unjust and unreasonable. The complaint asks this Commission to make its order compelling the Mt. Whitney Company to reduce its rates; to establish just and reasonable rules for the sale and measurement of electrical

power and the standard of service furnished; to take measurements, at any time, upon demand, of the amount of electric energy being furnished to its agricultural power consumers; to limit its right to shut off power, without the necessity of a rebate, to not more than forty hours, in the aggregate, in any one month; to permit its agricultural power consumers to use electric energy, when not needed for pumping water for irrigation, for other purposes in connection with their farms and households; and to install and maintain, at its own expense, all transformers. The answer denies that any of the rates, rules, regulations, contracts, or practices of the Mt. Whitney Company are unfair, unjust or unreasonable.

The complaint in Case No. 750 is signed by twenty-seven customers of the Mt. Whitney Company who are engaged in farming in Tulare County. Twenty-three of the complainants reside in and about Tulare; three in and about Waukena; one at Tipton and one at Porterville. The complaint complains of each of the matters set forth in the complaint in Case No. 654, and also of a number of additional matters. The additional matters, in so far as any evidence was presented, refer to the provisions in the agricultural power contracts of the Mt. Whitney Company providing that unpaid bills shall bear interest at the rate of 1 per cent per month, compounded monthly; granting the Mt. Whitney Company a right of way over the lands of the consumer beyond his installation; creating a lien on a designated portion of the land and installation of the consumer for unpaid bills; and providing, in effect, for six-year terms for the agricultural power contracts. The complainants allege that no contract having a term in excess of two years should be permitted. The answer denies that any of the rates, rules, regulations, contracts, or practices of the Mt. Whitney Company are unjust or unreasonable.

Subsequent to the filing of the complaints in Case No. 654 and Case No. 750, and after the first hearing thereon, the Mt. Whitney Company filed its petition in Application No. 1673. The Mt. Whitney Company asks this Commission to fix and determine the just and reasonable rates, rules, regulations, contracts, and practices to be charged, observed, and maintained by petitioner for each class of service rendered by it in each locality served by it.

While all the rates, rules, regulations, contracts, and practices of the Mt. Whitney Company are at issue in these proceedings, the burden of the complaints was directed almost entirely to the agricultural power business of the Mt. Whitney Company.

Public hearings in these proceedings were held in Tulare, Visalia, and San Francisco. Briefs have been filed and these proceedings are now ready for decision.

At the time these proceedings were submitted, the following exhibits had been filed by the respective parties:

1. Complainants—Exhibits Nos. 1 to 5, inclusive.
2. The Mt. Whitney Company—Exhibits Nos. 1 to 44, inclusive.
3. Railroad Commission—Exhibits Nos. 1 to 7, inclusive.

It was stipulated that the following documents should be considered as being in evidence without the assignment of a formal exhibit number: all rates, rules, and regulations of the Mt. Whitney Company on file with the Railroad Commission, including all deviations; the annual reports of the Mt. Whitney Company and of the Tulare County Power Company, on file with this Commission; all filings made with this Commission by the Mt. Whitney Company and the Tulare County Power Company under this Commission's General Order No. 38; the report filed by the Tulare County Power Company in February, 1915; the deeds of trust or mortgages of the Mt. Whitney Company on file with this Commission; the contract and supplemental contract between San Joaquin Light and Power Corporation and Tulare County Power Company, and all documents in connection therewith on file with this Commission; the report of the J. G. White Engineering Corporation on the properties of the Mt. Whitney Company, filed with this Commission in Application No. 1394; the 13th United States Census and the official reports of the State Board of Equalization and of the State Board of Agriculture, in so far as they bear on the growth of the territory served by the Mt. Whitney Company; and data to be supplied by the San Joaquin Light and Power Corporation in the matter of distribution losses to agricultural power consumers.

It was further stipulated that such documents as might be filed by the parties subsequent to the last hearing in these proceedings should be considered as evidence herein. The following documents were filed subsequent to the submission of these proceedings, have been given the exhibit numbers indicated and will be considered as being in evidence herein:

- Exhibit No. 45—Capacity of storage reservoirs and number of consumers as of August 31, 1915.
- Exhibit No. 46—Connected load by months, June to July, 1915.
- Exhibit No. 47—Capital expenditures of the Tulare County Power Company for 1912, 1913, 1914, and the first seven months of 1915.
- Exhibit No. 48—Consumers and connected load for each substation and each month from January 1st to August 31, 1915.
- Exhibit No. 49—Detail of certain items of intangible capital, as of 1910 and June 30, 1915, respectively.

- Exhibit No. 50—Data on efficiency of hydroelectric plants, actual capacity of the same and hourly load curves for one day of each month during the year 1915; monthly generator output curves for each plant and the system for 1915; monthly connected load curves by classes for 1915; and connected load by years from 1899 to 1915, inclusive.
- Exhibit No. 51—Monthly output curve Kaweah No. 1 for 1915—a correction to substitute for a similar curve submitted in Exhibit No. 50.
- Exhibit No. 52—Corrections to statements of reservoir capacities and output of all substations by months from July to December, inclusive, 1915.
- Exhibit No. 53—Stream flow curves for each hydraulic electric plant up to and including 1915, and statement of the period during the years 1910 to 1915, inclusive, when the storage lakes were being drawn upon.
- Exhibit No. 54—Data on consumption of flat rate pumping consumers.
- Exhibit No. 55—Detail of Railroad Commission expenses from January 1, 1915, to January 31, 1916.
- Exhibit No. 56—Classification under which the company kept its accounts prior to the institution of the Railroad Commission's classification.
- Exhibit No. 57—Comparative statement of operating and maintenance expenses by accounts for the months of November and December, 1915, and January, 1916.
- Exhibit No. 58—Statement in regard to failure of consumers' transformers.
- Exhibit No. 59—Statement of the operating revenues and expenses of Tulare County Power Company by accounts and months for the year ending July, 1915.
- Exhibit No. 60—Detailed statement of operating expenses of Mt. Whitney Power and Electric Company for the last six months of 1915, and detail of these for the year 1914.

The annual report of the Mt. Whitney Company for the year ending December 31, 1915, filed on February 11, 1916, will also be considered as being in evidence in these proceedings.

The subject matter of this opinion will now be considered under the following heads:

- I. Mt. Whitney Power and Electric Company and its predecessors.
- II. Property of Mt. Whitney Power and Electric Company.
- III. Territory and consumers served.
- IV. Stock, bonds and notes.
- V. Financial statement.
- VI. Contracts.
 1. Propriety of.
 2. Term of.
 3. Liens on land.
 4. Rights of way.
 5. Waiver of damages.
 6. Purposes for which electric energy may be used.
 7. The maximum demand system.
 8. Interest on unpaid bills.
 9. Transformers.
- VII. Service and extensions.

VIII. Rates.

1. Existing rates.
2. Value of property.
 - (a) Investment.
 - (b) Estimated reproduction cost new.
 - (c) Estimated cost of reproduction new less depreciation.
 - (d) Franchises.
 - (e) Going concern.
 - (f) Water rights.
 - (g) Fair return.
3. Operating expenses.
4. Depreciation annuity.
5. Cost of service.
6. Rates established.

IX. Rules and regulations.**I.****Mt. Whitney Power and Electric Company and Its Predecessors.**

The beginnings of the Mt. Whitney Power and Electric Company are to be found in a partnership formed by W. H. Hammond and A. G. Wishon, apparently a few years prior to 1898. After considerable difficulty in securing funds, the sum of \$200,000.00 was advanced by John Hays Hammond and Leopold Hirsch, of London. The construction of the hydroelectric plant known as Kaweah No. 1 was commenced in 1898. The plant was completed and placed in operation in June, 1899. At this time, transmission lines comprising about one-half the present system were constructed. These lines transmitted electric energy to Visalia, Tulare, Lindsay, and Porterville. The partnership owned distributing systems in each of these towns except Tulare, to which town electric energy was wholesaled.

On January 23, 1899, shortly prior to the completion of the system just described, Hammond and Wishon acquired the distribution system of Visalia Gas, Light and Heat Company for the sum of \$24,000.00.

On December 26, 1899, the Mt. Whitney Power Company was incorporated with an authorized capital stock of \$300,000.00, of which amount stock of the par value of \$250,000.00, was issued. The company acquired all the properties of Hammond and Wishon.

The hydroelectric plant known as Kaweah No. 2 was commenced in 1904, and completed in the spring of 1905.

The auxiliary steam plant at Visalia was constructed in 1905 and 1906. The distribution system of Tulare Gas and Light Company, located in Tulare, was purchased in 1909 for \$7,000.00.

In 1904, the Mt. Whitney Power Company purchased the capital stock of Globe Light and Power Company, which company had located certain water rights on the Tule River. No physical property was acquired. The sum of \$6,861.70, being the purchase price, was paid solely for water rights of Globe Light and Power Company.

The hydroelectric plant known as Tule No. 1, was constructed in 1909.

On November 8, 1909, Mt. Whitney Power and Electric Company, the present utility, was incorporated under the laws of California. On the same day, all the property of the Mt. Whitney Power Company was transferred to the new corporation.

The hydroelectric plant known as Kaweah No. 3, was constructed in 1912. From 1912 until August 1, 1915, the Mt. Whitney Company competed with the Tulare County Power Company for business in and about Lindsay and Tulare.

On August 1, 1915, the Mt. Whitney Company acquired the properties of Tulare County Power Company for the sum of \$550,000.00 (Volume 7, Opinions and Orders of the Railroad Commission of California, pages 703 and 714).

II.

Property of Mt. Whitney Power and Electric Company.

The production system of Mt. Whitney Power and Electric Company consists of three hydroelectric plants on the Kaweah River and one hydroelectric plant on the Tule River, all in Tulare County, supplemented, principally for stand-by purposes and to insure continuity of service, by a steam plant located in Visalia. Through the recent purchase of the property of Tulare County Power Company, the Mt. Whitney Company also became the owner of a steam plant in Tulare.

Kaweah Power House No. 1 is located immediately below the confluence of the East Fork and the Middle Fork of the Kaweah River. The plant secures its water supply from the East Fork, near the headwaters of which are located four small storage lakes. These four lakes are the only water storage owned by the Mt. Whitney Company and are insignificant in comparison with the system load. The installed capacity of this plant is 1,350 kilowatts, consisting of 3 units of 450 kilowatt unit.

Kaweah Power House No. 2 is located on the Middle Fork of the Kaweah River. It has no storage. The plant has an installed capacity of 1,700 kilowatts, consisting of one 500 kilowatt unit and one 1,200 kilowatt unit.

Kaweah Power House No. 3 is located on the Middle Fork of the Kaweah River just outside the Sequoia National Park. The plant draws its water supply from the Middle Fork and the Marble Fork of the Kaweah River. The plant has no storage capacity. The capacity of the plant is 2,800 kilowatts, consisting of 2 units each, having a capacity of 1,400 kilowatts.

The Tule River Power House is located on the Middle Fork of the Tule River, and secures its water supply from the North Fork and

the South Fork of the Middle Fork. The capacity of this power plant is 2,000 kilowatts, consisting of 2 units of 1,000 kilowatts each.

The Visalia steam plant is located at Visalia, and is used as a stand-by for the whole system. The plant has a capacity of 5,750 kilowatts, consisting of one 1,000 kilowatt unit, one 750 kilowatt unit and one 4,000 kilowatt unit.

The Tulare steam plant, formerly owned by the Tulare County Power Company, has an installed capacity of 1,200 kilowatts.

In addition to these plants, the Mt. Whitney Company has done preliminary construction work in connection with the hydroelectric plant to be known as Kaweah Power House No. 5, which will be located in the Sequoia National Park, on the Marble Fork of the Kaweah River. The plant is to secure its water supply from the Middle and the Marble forks of the Kaweah River, above the point where the conduit leading to Kaweah Power House No. 3 takes out its water. When the water has gone through proposed Kaweah Power House No. 5, it will be delivered to the main flume of the Kaweah Power House No. 3 system and again utilized.

The Mt. Whitney Company has also done preliminary work in connection with the proposed construction of a reservoir to be known as Wolverton reservoir, and to be located on the headwaters of the Kaweah River, in the Sequoia National Park. The Mt. Whitney Company is now seeking to adjust the claims of lower riparian owners and appropriators, and in the mean time is holding in abeyance further construction work in connection with this project.

Electric energy is transmitted from generating stations and between substations at 33,000 volts, 3-phase. The annual report of the Mt. Whitney Company for the year ending December 31, 1915, shows that 216.3 miles of high tension transmission lines have been constructed. The Mt. Whitney Company has employed a figure-eight-loop system, which includes twelve of the company's fifteen substations. The other three substations are on short spurs and are fed from this loop. The figure eight is approximately 40 miles long by 18 miles wide.

The Mt. Whitney Company reports 1,421.6 miles of primary distribution lines and 64.76 miles of secondary distribution lines. For the greater part the company's earlier distribution system, which forms the major portion of the company's business, is operated at 6,600 volts, 3-wire, 2-phase.

The Mt. Whitney Company maintains street lighting systems in all the principal cities and towns in its territory.

The Mt. Whitney Company owns a main office building and a garage in Visalia and an office building in Tulare. In Delano, Porterville, Lindsay, and Exeter the local offices are located in the front part of the substation buildings.

III.

Territory and Consumers Served.

The Mt. Whitney Company is engaged in no utility business other than the generation and sale of electric energy. Hence, the company's entire business is under review in these proceedings.

The territory served by the Mt. Whitney Company consists of Tulare County (excepting a small portion thereof in the northern portion of the county in the vicinity of Dinuba, Orosi and Stone Corral, and a small portion of the county in the southwest portion thereof in the vicinity of Angiola); about six and one-half townships in the middle northerly portion of Kern County; and a small part of the easterly portion of Kings County, east of Cross Creek. Within this territory, the company serves the incorporated cities of Visalia, Tulare, Porterville, Lindsay, and Exeter, in Tulare County; the towns of Lemon Cove, Woodlake, Venice Hill, Klink, Farmersville, Tipton, Earlimart, Richgrove, Ducor, Terra Bella, Poplar, Plano, Strathmore, Globe, and Springville, in Tulare County; and the town of Delano, in Kern County. The Mt. Whitney Company supplies electric energy for residence, commercial, municipal and other lighting purposes and for agricultural, industrial, street railway, and other power purposes.

The Mt. Whitney Company's principal business, as will hereinafter appear, is the sale of electric energy for pumping water for irrigation. The following table shows the number of the Mt. Whitney Company's consumers connected in December, 1913, December, 1914, and specified months in 1915, with certain data as to the number of consumers connected to the system formerly owned and operated by the Tulare County Power Company:

TABLE No. I.
Consumers connected—Mt. Whitney Power and Electric Company and former Tulare County Power Company.
 MT. WHITNEY POWER AND ELECTRIC COMPANY.

	Dec. 1913	Dec. 1914	Jan., 1915	Feb., 1915	Mar., 1915	April, 1915	May, 1915	June, 1915	July, 1915	*Aug., 1915	*Dec., 1915
Residence light	2,814	2,731	2,763	2,738	2,739	2,738	2,737	2,697	2,698	2,884	3,153
Commercial light	1,035	809	895	884	876	878	881	863	846	977	1,023
Municipal light	10		20	20	20	20	20	20	20	21	17
All other light	100	131	122	127	130	133	136	125	134	142	160
Industrial power	192	265	253	254	253	254	261	252	256	298	327
Agricultural power	1,456	1,273	1,274	1,276	1,283	1,302	1,306	1,328	1,328	1,785	1,698
All other power	244	602	632	634	637	636	632	628	631	734	746
Electric railroad			1	1	1	1	1	1	1	1	
Totals	5,851	5,811	5,960	5,934	5,939	5,962	5,974	5,914	5,914	6,842	7,124

TULARE COUNTY POWER COMPANY.

Residence light	221	207								62	
Commercial light		62								81	
Municipal light	1									2	
All other light										9	
Industrial power	12	16								46	
Agricultural power	582	584								466	
All other power										102	
Electric railroad											
Totals	766	869								768	
Grand totals	6,617	6,680								6,842	7,124

*Includes Tulare County Power Company System.

The following table shows the number of kilowatt hours of electric energy sold under meter measurement to the respective classes of the Mt. Whitney Company's consumers during the year ending December 31, 1915:

TABLE No. II.

Residence lighting -----	553,907 kilowatt hours
Commercial lighting -----	611,067 kilowatt hours
Municipal lighting -----	0 kilowatt hours
All other lighting -----	71,596 kilowatt hours
Industrial power -----	2,132,776 kilowatt hours
Agricultural power -----	4,780,893 kilowatt hours
All other power -----	1,258,331 kilowatt hours

Attention should be drawn to the fact that the foregoing table does not include any electric energy sold under flat rates. The Mt. Whitney Company has no meters on its agricultural flat-rate consumers.

The Mt. Whitney Company reports in its Exhibit No. 37 that with reference to its electric energy sold for power purposes, 81.8 per cent is for pumping water to irrigate land, 4.3 per cent for domestic plants, mostly located on farms, 9.5 per cent for industrial purposes and 4.4 per cent for miscellaneous purposes. The company concludes that approximately 90 per cent of all its electric energy sold for power is used on farms or in connection with farms.

The following table shows the power consumption for the various classes of the Mt. Whitney Company's business, including the business acquired from Tulare County Power Company, in accordance with surveys made in 1914 and 1915:

TABLE No. III.

Consumption by classes of consumers.

Class	Number of motors	Total horsepower	Per cent of total number	Per cent of total horsepower
Agricultural -----	1,666	14,316	66.5	81.8
Domestic -----	495	758	19.8	4.3
Industrial -----	298	1,654	11.9	9.5
Railroad -----	2	375	-----	2.1
Miscellaneous -----	44	397	1.8	2.3

The irrigation plants under the Mt. Whitney Company's system irrigate 67,481 acres of land planted to the following crops:

TABLE No. IV.

Crops and land irrigated by Mt. Whitney Power and Electric Company.

Citrus orchards:	
Bearing	13,498 acres
Nonbearing	14,272 acres
Total	27,770 acres = 41.2 per cent of total acreage
Olive orchards:	
Bearing	392 acres
Nonbearing	2,641 acres
Total	3,033 acres = 4.5 per cent of total acreage
Alfalfa	28,891 acres = 42.8 per cent of total acreage
Miscellaneous orchards	1,156 acres = 1.7 per cent of total acreage
Peaches	1,155 acres = 1.7 per cent of total acreage
Vineyards	1,018 acres = 1.5 per cent of total acreage
Miscellaneous field crops	4,458 acres = 6.6 per cent of total acreage
Total acreage	67,481 acres

The average operation of pumps for the irrigation of lands under the Mt. Whitney Company's system is a continuous period of seven months. The ratio of the average demand to the rated capacity of the motors is 94.3 per cent. The annual input per horsepower installed is 3,595 kilowatt hours. At the standard rate of \$50.00 per horsepower per year, the farmers pay 1.391 cent per kilowatt hour. On the assumption that the over all efficiency from generator to consumer is 60 per cent, the Mt. Whitney Company secures a revenue of .8345 cent for each kilowatt hour produced in connection with its agricultural pumping business.

In addition to the power consumers shown in Table II, the Mt. Whitney Company serves electric energy for power purposes to the Visalia Electric Railway, the Visalia City Water Company and the cities of Exeter, Lindsay, Porterville, and Tulare.

IV.

Stock, Bonds and Notes.

The Mt. Whitney Company has an authorized issue of \$3,200,000.00 of common capital stock of the par value of \$100.00 per share. Of the amount thus authorized, common capital stock of the par value of \$2,625,000.00 was issued and outstanding on December 31, 1915. This stock, with the exception of nine shares to qualify directors, is all owned by Mt. Whitney Power and Electric Corporation of New York, the holding company.

Mt. Whitney Power Company, the immediate predecessor of the present utility, had an authorized capital stock of the par value of \$300,000.00, of which amount capital stock of the par value of

\$250,000.00 was issued. This stock represented \$200,000.00 paid in cash by John Hays Hammond and Leopold Hirsch, \$120.00 paid for 12 shares by three directors and \$49,880.00 issued to W. H. Hammond and A. G. Wishon, apparently for their services in the promotion of the company. On April 25, 1904, the authorized capital stock was increased from \$300,000.00 to \$1,000,000.00. On May 5, 1904, a stockholders' dividend of 200 per cent, amounting to \$500,000.00, was declared. Of this \$500,000.00, \$135,839.91 represented the accrued surplus of the company to December 31, 1903, and \$364,160.09 was charged to plant as an increment in the value of the property. This sum is treated by this Commission's auditing department as a stock discount.

On November 8, 1909, the Mt. Whitney Power and Electric Company, the present utility, issued \$1,874,500.00 in common stock and \$750,000.00 in preferred stock, in exchange for the property of its predecessor, the Mt. Whitney Power Company. The Mt. Whitney Power Company was dissolved on December 16, 1912. Of the stock thus issued by Mt. Whitney Power and Electric Company, this Commission's auditing department reports the sum of \$2,039,330.50 as being properly a stock discount. In 1915, under authority from this Commission, the Mt. Whitney Company retired its outstanding preferred stock and issued in lieu thereof its common stock of the par value of \$750,000.00, so that at the present time the company's outstanding capital stock is confined to common stock of the par value of \$2,625,000.00 (Vol. 6, Opinions and Orders of the Railroad Commission of California, page 50). The Mt. Whitney Company has authorized and issued its first mortgage 6 per cent gold bonds of the total face value of \$5,000,000.00. Of the amount thus authorized, bonds of the face value of \$3,110,000.00 were outstanding in the hands of the public on December 31, 1915. The company has sold bonds of the total face value of \$3,162,000.00, and has received therefor the sum of \$2,897,800.00 in cash. All the bonds sold since November, 1911, have been sold at 95 per cent or 96 per cent of their face value. The company has retired bonds of the face value of \$52,000.00, thus leaving outstanding on December 31, 1915, bonds of the face value of \$3,110,000.00.

On December 31, 1915, the Mt. Whitney Company had outstanding promissory notes of the face value of \$108,874.71. On the same day it had accounts payable amounting to \$13,560.59, a depreciation reserve of \$489,919.58, a bad debt reserve of \$60,805.88, an item for notes payable which were cancelled by the holding company and returned to the Mt. Whitney Company of \$237,392.09, and a surplus of \$317,852.88.

V.

Financial Statement.

This Commission's auditing department reports book assets and liabilities of the Mt. Whitney Company on December 31, 1915, as follows:

TABLE No. V.

Assets and liabilities of Mt. Whitney Power and Electric Company on December 31, 1915.

ASSETS.

Total capital expenditures to June 30, 1915, as per report September 23, 1915.		
Plant as per detail in report to June 30, 1915----	\$5,721,577	42
Work in progress -----	338	06
		<hr/>
	\$5,721,915	48
<i>Add:</i>		
Tulare County power purchase-----	\$550,000	00
Additions -----	16,881	36
Work in progress (mostly Tulare County plant) -----	15,127	92
		<hr/>
	\$582,009	28
<i>Less</i> retirement -----	11,624	79
		<hr/>
	570,384	49
Total capital investment December 31, 1915-----	\$6,292,299	97
Cash -----	\$60,818	38
Notes receivable -----	85,269	27
Accounts receivable -----	193,802	17
Material and supplies-----	57,307	42
Prepaid expenses and suspense-----	71,064	65
		<hr/>
Total current assets -----	468,261	89
Bond discount and expense-----	251,860	53
		<hr/>
Total assets December 31, 1915-----	\$7,012,422	39

LIABILITIES.

Capital stock—common -----	\$2,625,000	00
Bonds -----	3,110,000	00
		<hr/>
Total capital liabilities December 31, 1915--	\$5,735,000	00
Notes payable -----	\$108,874	71
Accounts payable -----	13,560	59
Meter deposits -----	1,466	85
Bond interest accrued-----	46,650	00
Other interest accrued-----	899	81
		<hr/>
Total current liabilities-----	171,451	96
Depreciation reserve -----	\$459,919	58
Bad debt reserve-----	60,805	88
Notes payable cancelled and re-		
turned to company-----	237,392	09
Surplus -----	317,852	88
		<hr/>
Total reserves -----	1,105,970	43
		<hr/>
Total liabilities December 31, 1915-----	\$7,012,422	39

The following table shows the income account of Mt. Whitney Company for the year ending December 31, 1915, as reported by this Commission's auditing department:

TABLE No. VI.

Income account for year ending December 31, 1915, Mt. Whitney Power and Electric Company.

Earnings—		
Power	\$598,594	30
Light	146,546	72
	<hr/>	
	\$745,141	02
Less discounts and rebates	9,831	90
	<hr/>	
	\$735,309	12
Operation expenses—		
Generation	\$98,647	12
Transmission	13,833	69
Distribution	53,652	07
Commercial	41,218	69
General	76,194	74
Royalty for use of line	66	77
	<hr/>	
	283,613	08
	<hr/>	
Gross gain from operation	\$451,696	04
Deduct:		
Taxes	\$32,474	26
Depreciation	67,055	38
Lost accounts	8,017	19
Fire loss	106	82
	<hr/>	
	107,653	65
	<hr/>	
	\$344,042	39
Add:		
Job work and sales	\$244	08
Rentals (nonoperating)	311	83
Interest received	14,232	65
	<hr/>	
	14,788	56
	<hr/>	
	\$358,830	95
	<hr/>	
Bond interest	\$165,528	19
Other interest	6,346	91
Amortization debt discount	11,131	51
	<hr/>	
	183,006	61
	<hr/>	
Net addition to surplus for year	\$175,824	34

VI.

Contracts.1. *Propriety of.*

The Mt. Whitney Company uses four forms of contracts in connection with the sale of its electric energy for the pumping of water for irrigation, and also has a number of special contracts with various municipalities and Visalia Electric Railroad Company, all as shown in the company's Exhibits Nos. 4 and 5. The four agricultural power

contracts are known as C-1-1912, being the standard flat-rate contract; C-2-1912, being a meter-rate contract with a minimum monthly charge on all size motors of \$1.00 per horsepower installed capacity; C-3-1912, being known as the combination contract and providing for a flat rate of \$25.00 for each horsepower of current furnished at the time of the purchaser's maximum consumption from February 1st to July 1st of each year and a meter rate of 3 cents per kilowatt hour of current furnished during the remaining months of the year; and C-4-1912, being a meter-rate contract with a minimum yearly charge on all size motors of \$24.00 per horsepower of installed capacity.

In the San Joaquin Light and Power Corporation cases, this day being decided, the general question whether a public utility should have the right to require the signing of a contract as a condition precedent to service is fully discussed. As is there pointed out, while the general rule is that public utilities should not have the right to require the signing of contracts as conditions precedent to service, there may be exceptional cases or classes of cases in which justice to the utility may justify the signing of contracts or some other means to secure the utility against large losses which would ensue if a consumer who required the expenditure of a comparatively large amount of money to serve him, should discontinue his service shortly after its intallation, without any obligation on him to make any further payment to the utility. The Mt. Whitney Company claims in its Exhibit No. 37 that while it costs only from \$3.00 to \$5.00, in addition to the meter, to take care of an average consumer within an incorporated city or town, it costs the Mt. Whitney Company about \$300.00 per consumer to construct the necessary distributing lines to serve its agricultural power consumers in unincorporated territory.

Considerable complaint has heretofore been made by consumers of the Mt. Whitney Company with reference to the requirement that a contract be signed as a condition precedent to service of power for pumping water for irrigation. The Mt. Whitney Company has accordingly established a monthly non-contract rate for power sold for pumping purposes, which rate appears as Schedule E in the company's rates on file with this Commission. The non-contract rate, however, is considerably higher than the contract rate and but few customers have availed themselves of this rate.

Under the conditions as they at present exist with reference to the agricultural power consumers in the territory served by the Mt. Whitney Company, in view particularly of the comparatively heavy cost to serve each of these consumers, I am of the opinion that for the present the Mt. Whitney Company should be permitted to continue the practice of requiring the signing of contracts as conditions precedent

to this class of service, provided that the changes in the terms of such contracts in this opinion specified be made.

As pointed out by this Commission in Decision No. 616, in Application No. 347, *Oro Electric Corporation*, decided on April 29, 1913 (Vol. 2, Opinions and Orders of the Railroad Commission of California, pages 748, 766), one of the chief complaints which arises in connection with the signing of contracts by the patrons of public utilities is that such patrons, generally not understanding their legal rights, believe that they have no right to ask for any variation in the terms of such contract during its life. The consumers do not generally know that redress lies by appeal to the Railroad Commission in case the terms of such contract should prove unjust or unreasonable. In order to meet this condition, the Mt. Whitney Company has inserted in all its contracts entered into subsequent to October 1, 1912, the following language:

“It is understood by and between the parties hereto that this agreement is merely in the nature of a regulation and subject at all times, after proceedings duly had, to change or abolition by the Railroad Commission of the State of California.” (Vol. 1, Opinions and Orders of the Railroad Commission of California, p. 646.)

The Mt. Whitney Company's contracts should all continue to include this language.

The Railroad Commission reserves the right to authorize the cancellation of any contract upon just and equitable terms, under which the Mt. Whitney Company will secure the protection to which it is entitled in connection with its investment made to serve the discontinuing consumer.

No complaint was made with reference to the practice of requiring the signing of contracts as conditions precedent to service to municipalities. In so far as street lighting contracts are concerned, the practice of signing such contracts has uniformly obtained in this State, and I am not satisfied, at the present time, that the practice is unreasonable.

In so far as all classes of service, apart from the agricultural power business and municipal street lighting are concerned, the Mt. Whitney Company should discontinue the practice of requiring the signing of contracts as a condition precedent to service. I understand that the Mt. Whitney Company has required the signing of contracts to only a slight extent in cases other than the service of agricultural power and municipal street lighting.

2. *Term of.*

The agricultural power contracts of the Mt. Whitney Company, like those of the San Joaquin Light and Power Corporation, are for five-year terms. The business of these two corporations has grown up simultaneously, and in many respects their contracts and practices have

been similar. Considerable complaint having arisen that it is unjust to compel a consumer to sign another five-year contract after the expiration of the first five-year contract, the Mt. Whitney Company, in the case of *Seaman vs. Mt. Whitney Power and Electric Company*, decided June 29, 1914 (Vol. 4, Opinions and Orders of the Railroad Commission of California, page 1362), offered to insert in all its contracts the following paragraph, which is now regularly incorporated in all of the Mt. Whitney Company's agricultural power contracts:

"Upon the expiration of the term herein provided for, there shall be deemed to be a renewal of the term of this contract from year to year for the same price and on the same terms and conditions as in this contract now stated; provided, however, that said purchaser may cease to take current hereunder at the end of any such yearly renewal by notifying said company in writing at least thirty days before the expiration of any such yearly renewal to discontinue service of current under such contract at the end of such yearly renewal; and provided, further, that upon current being discontinued hereunder at the instance of the purchaser, as herein provided, such purchaser shall thereafter be required to again obtain service of current by said company in accordance with the schedule of rates and contracts of said Mt. Whitney Power and Electric Company then on file with the Railroad Commission of the State of California."

The complainants in Case No. 750 allege that under this language it is not possible for the consumer to cancel the contract at the end of the first five-year term but that the term runs for six years with the possibility of discontinuance by thirty days notice only at the end of the sixth year. While I am not certain that such was the intention of the parties, I am inclined to believe that these complainants are correct under the language of the paragraph hereinbefore quoted.

The complainants in Case No. 750 urged that the contracts for agricultural power should not extend beyond a two-year term. The Mt. Whitney Company, in its brief, contends "that the term of the contract should be not less than three years, provided that the contract would continue in force from year to year at the expiration of the three years without the necessity of being renewed unless the contract is terminated by the consumer as now provided under Decision No. 1628 in the case of *F. E. Seaman et al. vs. Mt. Whitney Power and Electric Company*."

After a careful examination of the average cost to the Mt. Whitney Company of constructing distributing lines to serve its agricultural power customers and of the average revenue secured from such extensions, I am of the opinion that the term of the agricultural power contracts should be reduced from five years to three years, that the consumer should have the right to discontinue service at the end of the

third year upon giving thirty days notice in writing prior to the expiration of the three years, and that if he does not give such notice, the contract may be deemed to continue, from year to year, without the signature of a new contract, but with a right on the part of the consumer to discontinue the contract at the end of any year by thirty days' notice in writing, as provided in Decision No. 1628. The Mt. Whitney Company should revise its contracts accordingly.

3. *Liens on land.*

The Mt. Whitney Company's agricultural power contracts all provide that unpaid bills shall constitute a lien and charge "upon and against the motor, transformers, agricultural and other machinery, plant and apparatus connected therewith, installed upon the purchaser's said lands hereinabove described, and affixed thereto and sufficient of said lands for the use thereof, with the right to removal thereof in case of default in the payment of said sums, which lien may, in case of default in the payment of any of said sums, be foreclosed by the company in the manner provided by law for the foreclosure of mortgages upon real estate."

As far as I know, only one or two electric utilities other than the Mt. Whitney Company and the San Joaquin Light and Power Corporation have undertaken to make unpaid bills a lien on the consumer's premises. Even these utilities do not claim a similar right with reference to any other class of their consumers. The practice is clearly a discrimination against the agricultural power consumers, in addition to being unreasonable *per se* and should be discontinued.

4. *Rights of way.*

The agricultural power contracts of the Mt. Whitney Company all provide that the purchaser grants to the utility not merely the right to erect and maintain its lines to the consumer's motor, but also beyond the motor over the consumer's lands to the lands of other people. The consumer is thus compelled, as a condition of securing service for himself, to grant a property right in his land in connection with an entirely disconnected service to other people. This provision is unreasonable and should be eliminated in so far as it refers to a right of way beyond the consumer's own installation, or to a right of way to the consumer's installation extending beyond the use of the service by the consumer.

5. *Waiver of damages.*

The agricultural power contracts of the Mt. Whitney Company contain a number of provisions by which the consumer is compelled to waive claims for damages which he might otherwise have against the utility. As pointed out in the San Joaquin Light and Power Corporation cases, this day being decided, such provisions are not properly a part of the rules and regulations of a public utility, and should not be made a part

of any contract of service. The parties should be left to the usual rules of law applicable to such circumstances, and the utility should not try to make the consumer, as a condition of service to him, waive such rights as the law would otherwise give him.

The provisions with reference to the waiver of damages should be eliminated from the Mt. Whitney Company's contracts.

6. *Purposes for which energy may be used.*

In the matter of the purpose for which the agricultural power consumers of the Mt. Whitney Company may use the electric energy, the contract of the Mt. Whitney Company provides as follows:

"The purchaser may, if the purchaser choose (but only after giving written notice to the company of said purchaser's intention to do so) use, without additional charge, the current received hereunder for illuminating the houses and buildings on the purchaser's above described premises, but not otherwise, provided such current is not used in excess of the amount normally required to run said motor, and provided the operation of said motor, and the use of current thereon, are suspended during the time that any of the current is being so used for illuminating purposes. All switches and other apparatus necessary to effect the cutting out of the said motor prior to the cutting in of said lights (and vice versa) shall be installed on said premises by the company, but at the purchaser's cost and expense."

It will be noted that the consumer may, under the conditions specified in the paragraph above quoted, use the electric energy, without additional charge, for illuminating the house and buildings on the consumer's premises, provided that the operation of the pumping motor and the use of current for illumination are not carried on at the same time. The testimony shows that this provision was inserted before the farmers desired to use the electric energy for the operation of small motors for various purposes, and that at the present time many of the farmers desire to use the electric energy, when their pumping motors are not in operation, for the cutting of alfalfa or other feed, the grinding of corn, the operation of cream separators and the pumping of water for domestic purposes or for stock. The complainants ask that this privilege be accorded to them at times when their motors for pumping water for irrigation are not in operation. The Mt. Whitney Company, on the other hand, contends in its brief that the practice of permitting the electric energy to be used for illuminating purposes when the motors for pumping water for irrigation are not in use "has been the cause of more complaints than all others combined, as numerous patrons think they have the right to bridge the switch and use the current all the time for all purposes, power, lighting, heat, cooking and the operation of numerous other small motors for domestic and farming purposes."

The Mt. Whitney Company suggests that the existing provision permitting the use of the electric energy for illuminating purposes be eliminated, and that no use be permitted for any purpose in addition to the pumping of water for irrigation.

The mere fact that a privilege may be abused, is, of course, no convincing reason for the withdrawal of the privilege. It is difficult to understand why a farmer who pays for a certain amount of electric energy which he may use for pumping water during every minute of a specified time, should not have the right, if he does not need the energy for pumping water for irrigation, to use it during such time for other purposes. The Mt. Whitney Company seems to have recognized the justice of this contention when it permitted the use of the electric energy by the farmers for illuminating their houses and buildings. The logic of the situation applies as well to the use of the electric energy for small motors for the other purposes herein referred to, which uses have grown up subsequent to the drafting of the agricultural power contracts used by the Mt. Whitney Company.

The contracts of the Mt. Whitney Company should be modified so as to permit the consumer to use the electric energy for the purposes hereinbefore specified, at times when the motor for pumping water for irrigation is not operating. The utility has the right, of course, to insist that the terms of the contract as thus modified shall not be violated and that the electric energy shall not be used for the purposes herein specified except at times when the motor is not in operation for pumping water. If the Mt. Whitney Company has any suggestions to offer for protecting itself against possible abuses of the right herein granted, the company may submit such suggestions to this Commission, to be embodied, if approved, in the company's contracts.

7. *The maximum demand system.*

A large number of complaints by consumers of the Mt. Whitney Company's agricultural power service were directed against the method followed by the company in determining the maximum demand. The complainants drew attention to the fact that considerable variation exists from month to month in the actual demand created by the operation of the consumer's installations, and urge that it is not fair to the consumer to measure his demand at a time in the year when the demand is at its maximum and base the charges for the entire year on tests so made, when, as a matter of fact, for the greater part of the time during which the consumer's installation is operated the demand may be much less.

The maximum demand system of rating, as applied by the Mt. Whitney Company, is confined to installations operating under flat rates. The method used in ascertaining the maximum demand is described

on Sheet No. 24-E of the Mt. Whitney Company's rate schedules, as follows:

"The amount of electric current furnished by the company hereunder, during each year of said term, shall be ascertained and determined by measurements thereof made by the company at such time or times as the company may elect; and the maximum amount of electric current furnished at any time during each year of the term (when determined by such measurements) shall be deemed to be the amount of current furnished throughout such year; and the maximum amount of current furnished, when so ascertained and determined as to any year of the term, shall be deemed to continue throughout the succeeding years of the term, until and unless the maximum of such succeeding years shall have been measured and determined as aforesaid. When the maximum amount of current furnished hereunder during any year shall have been measured and determined as aforesaid, the company shall notify the purchaser of the results of such measurement, by written notice to the purchaser deposited in any U. S. post office in California, postage prepaid, and addressed to the purchaser at (his address) and notice so given shall be deemed sufficient notice."

This matter has been given very careful consideration, both in these proceedings and in connection with the San Joaquin Light and Power Corporation cases, and I am convinced that the contention of the complainants is well founded, and that the rates, at least for the smaller installations, should be based on the connected load and not on the maximum demand, as hitherto ascertained. In view of the fact that the present practice of the Mt. Whitney Company is to measure the consumer's maximum demand at or about the beginning of the irrigating season instead of during the period of the company's maximum system peak, it would appear as though little consideration has been given to the question of the effect of these demands upon the peak load capacity of the company's system. Under such conditions rates based on the connected load, considering the fact that the operating characteristics of the company's agricultural power business are well known, would be at least as reasonable, in addition to having the advantage of being much simpler and less expensive to maintain.

There are undoubtedly certain conditions under which a demand rate would be more reasonable than a rate based upon the connected load, particularly in the case of large installations or where several motors are in use, but in all such cases the demand should be regularly and constantly measured by some fixed instrument located at the point where the service is delivered to the consumer. There are several types of satisfactory combination demand indicators and integrating watt-hour meters now on the market, and where conditions are such as to require or make advisable a rate based on the maximum demand, such rate

should contemplate the installation of such meter recording the maximum demand over a period of not less than fifteen minutes.

Where the consumer desires to use one or more motors, or motors and other electrical equipment which are not intended to operate simultaneously, and the maximum demand is controlled by means of a double throw switch or other approved demand limiting device, the connected load should be taken as the maximum load which can be connected at one time to the company's system.

The rates herein established are based on the methods hereinabove described.

8. *Interest on unpaid bills.*

The Mt. Whitney Company's agricultural power contracts provide that interest shall accrue on all unpaid bills at the rate of 1 per cent per month, compounded monthly. No similar provision applies with reference to any other class of the Mt. Whitney Company's consumers. No reason occurs to me why the farmer alone should pay such heavy rate of interest. The provision is clearly a discrimination against the Mt. Whitney Company's agricultural consumers and should be eliminated.

9. *Transformers.*

The Mt. Whitney Company's "Standard Terms and Conditions of Service," as filed with the Commission, gives the classes of consumers who are required to furnish their own transformers, as follows:

"Under all forms of contract, and also under non-contract rates, the consumer installs and maintains his electric motor, with suitable transformers, machinery and other appliances, including all necessary protective appliances and all wiring, suitable for the operation of the same by the current of the company, except that two horsepower motors, or smaller, single phase 110 or 220 volts, may be connected to the company's lighting transformers on the non-contract rates."

In Mt. Whitney Company's Exhibit No. 24 is shown a list of 21,422 kilowatts in distribution transformers owned by consumers, but the figure, compared with a total connected motor load of 17,500 kilowatts, appears excessively high. If the figure is correct, it indicates that the total distribution transformers' core loss on the system is somewhat in excess of 20 per cent more than it should be. However, this only indicates one of the evil results from the system of requiring each consumer to own and maintain his own transformers.

In my opinion there can be no question but that the distribution transformers are a necessary part of the facilities which a company requires in connection with the delivery of electric energy to the consumer, and as such should be owned and maintained exclusively by the

serving utility. To be sure, the Mt. Whitney Company claims that it sells electric energy to the consumer at 6,600 volts, but upon the same theory, carried to the extreme, it could claim the right to sell the energy of the mountain streams upon which it controls the water rights and require the consumer to provide all the facilities necessary to produce, transmit, and distribute the electric energy. As a matter of fact, the consumer is not in the business of producing and distributing electric energy, and should not be required, except possibly in exceptional cases, to provide or maintain any of the facilities required to give him the service to which he is entitled, and the cost of which should be included in the rates charged.

In determining proper rates to be charged by the Mt. Whitney Company, careful consideration has been given to this matter, and the rates herein established are based upon the assumption that the Mt. Whitney Company will acquire, on equitable terms, all transformers now owned by its consumers, and that henceforth it will continue to provide and maintain all the facilities necessary in connection with the delivery to the consumer of electric energy at the rated voltage of his utilization equipment.

It is suggested that the consumers' transformers be paid for under some uniform and nondiscriminatory method of crediting a portion of the purchase price each month on the consumers' bills for service. Inasmuch as the rates provided for herein contemplate, as above indicated, the ownership by the Mt. Whitney Company of all the necessary distribution transformers it will, of course, be necessary to further reduce these rates unless the company at once takes steps to comply with the suggestions herein contained.

VII.

Service and Extensions.

No complaint was made herein with reference to the Mt. Whitney Company's service. Counsel for the complainants expressly stated that the complainants regarded the service of the Mt. Whitney Company as excellent and took the position that due credit should be given the Mt. Whitney Company by reason of this fact.

With reference to extensions, also, no complaint was made. The Mt. Whitney Company has at its own expense constructed all extensions with the exception of some half dozen. The Mt. Whitney Company builds to the motor at its own expense.

VIII.

Rates.

1. *Existing rates.*

The existing rates of the Mt. Whitney Company, in so far as deemed necessary, will be set out in the discussion hereinafter contained dealing with the rates herein established.

2. *Value of property.*

(a) *Investment.* The Mt. Whitney Company reported the book cost of its properties as of August 31, 1915, to be the sum of \$5,734,006.93, as appears from the following table:

TABLE No. VII.

Book cost of property, Mt. Whitney Power and Electric Company, August 31, 1915, as reported by the company.

Organization	\$1,027,106 82
Franchise	1,027,106 82
Other tangible capital	1,723 22
Land	58,827 43
Dams, water conduits and penstocks	1,112,117 29
Power plant buildings and general structures	156,594 48
Hydro power plant equipment	200,735 48
Furnaces, boilers and accessories	207,650 57
Steam power plant equipment	110,996 21
Poles and fixtures—"Transmission"	136,523 21
Poles and fixtures—"Distribution"	457,281 03
Overhead system—"Transmission"	97,966 94
Overhead system—"Distribution"	302,779 10
Substation buildings and general structures	72,111 79
Substation equipment—"Transmission"	204,882 92
Substation equipment—"Distribution"	20,886 21
Miscellaneous equipment	10,834 46
Line transformers and devices	37,413 52
Electric services	12,605 98
Meters	69,683 24
Municipal street lighting system	37,872 30
General structures	65,213 29
General equipment	29,113 69
Telephone lines	14,807 80
Roads, trestles, and bridges	96,345 24
Undistributed construction expenditures	127,128 63
Interest during construction	37,734 97
	<hr/>
	\$5,734,006 93

The Mt. Whitney Company reports an additional sum of \$549,941.00 as representing the book cost as of August 31, 1915, of the property acquired from Tulare County Power Company.

This Commission's auditing department reports the book cost of the property of the Mt. Whitney Company as of June 30, 1915, to be \$5,721,577.42, as appears from the following table:

Book cost property of Mt. Whitney Power and Electric Company on June 30, 1915, as reported by Railroad Commission's auditing department.

	June 30, 1914			Total at June 30, 1915
	Plant	Kaweah No. 3	Total	
Water rights	\$2,063,844 25	\$18 60	\$2,063,862 85	{ 3,505 76 } 19,154 97
Franchises				1,723 22
Other intangible capital				31,426 76
Land devoted to electric operation				27,396 97
Other land	57,851 11		57,851 11	985,314 78
Dams, water conduits and penstocks	656,915 35	309,249 49	966,164 84	19,149 94
Power plant buildings and general structures:				
Kaweah No. 1	5,028 23		5,028 23	87 40
Kaweah No. 2	15,749 17		15,749 17	92 71
Kaweah No. 3		15,682 72	15,682 72	5 95
Tule No. 1	12,893 00		12,893 00	45 79
Steam plant	65,669 86		65,669 86	175 95
Cottages, stables and slaughter houses	21,798 42	9,415 02	31,213 44	9,154 46
Hydro power plant equipment:				
Kaweah No. 1	36,740 98		36,740 98	29 89
Kaweah No. 2	50,128 14		50,128 14	3 11
Kaweah No. 3		62,817 61	62,817 61	65 62
Tule No. 1	50,833 24		50,833 24	49 91
Furnaces, boilers and accessories	185,102 03		185,102 03	22,608 68
Steam power plant equipment	107,492 62		107,492 62	3,503 59
Transmission system	187,505 40	3,691 64	191,197 04	42,567 47
Distribution system	713,803 15		713,803 15	41,004 17
Substation buildings and general structures	58,344 36		58,344 36	13,467 53
Substation equipment:				
Transmission	132,328 87		132,328 87	75,049 89
Distribution				19,805 37
Miscellaneous equipment	12,453 62		12,453 62	7,619 16
Line transformers and devices	35,396 45		35,396 45	1,901 99
Electric services	11,714 11		11,714 11	579 22
Meters	66,392 96		66,392 96	62,633 63
				207,378 76
				19,805 37
				10,834 46
				37,298 44
				12,298 33
				69,026 53

Municipal street lighting-----	34,664 87	-----	34,664 87	3,269 61	37,934 48
General structures-----	63,212 07	-----	63,212 07	2,001 22	65,213 29
Furniture and fixtures-----	11,348 26	-----	11,348 26	1,681 61	13,029 87
Automobiles and autocycles-----	4,002 03	-----	4,002 03	13,517 16	17,519 19
Telephone lines-----	13,330 39	1,304 18	14,634 57	173 23	14,807 80
Roads, trestles and bridges-----	-----	91,901 68	91,901 68	4,366 27	96,267 95
Undistributed construction expenditures-----	3,997 03	125,646 03	129,643 06	3,925 36	125,717 70
Interest during construction-----	-----	37,734 97	37,734 97	-----	37,734 97
Woolverton dam-----	119,006 99	-----	119,006 99	2,075 04	121,082 03
Globe stock-----	1 00	-----	1 00	1 00	-----
Unfinished work orders-----	\$1,797,547 96	\$657,461 94	\$5,455,009 90	\$266,567 52	\$5,721,577 42
	133,310 39	-----	133,310 39	133,310 39	-----
	\$1,930,858 35	\$657,461 94	\$5,588,320 29	\$133,257 13	\$5,721,577 42

Railroad Commission's Exhibit No. 5 shows the book cost of the property of Tulare County Power Company as of August 1, 1915, to be \$775,348.43.

It will be observed that both the Mt. Whitney Company and this Commission's auditing department report the book cost of "water rights" and "franchises" to be \$1,027,106.82 for each item. The testimony shows that these two items prior to January 1, 1915, were carried as one item entitled "water rights and franchises," and amounting to \$2,054,213.64. Mr. Fred G. Hamilton, the superintendent of the Mt. Whitney Company's western division, testified that he did not know how much cash had actually been expended for these two items, but that he believed the facts were correctly reported in Railroad Commission's Exhibit No. 1. In this latter exhibit, the Commission's auditing department reports that of these two items \$2,039,330.57 represents "water" and should be treated as stock discount. If the sum of \$49,880.00 is allowed as organization expenses, paid to William H. Hammond and A. G. Wishon as representing the real value of the services of these gentlemen, there would still be an amount of \$1,989,450.57 for which no consideration was received by the Mt. Whitney Company. This item emphasizes the distinction between "book cost" and actual investment.

This Commission's auditing department reports the actual investment in the property of the Mt. Whitney Company as of June 30, 1914, to have been the sum of \$3,548,989.72, which investment was derived from the following sources:

Received from capital stock sales	\$335,959 91
Received from bond sales, net after discount	2,260,029 67
Net profits after dividends	424,002 07
Depreciation fund	429,983 34
Liabilities credited	\$603,306 10
Less working assets on hand	504,291 37
	<hr/>
	99,014 73
Cash invested	<hr/>
	\$3,548,989 72

The foregoing total does not include the capital stock of the face value of \$49,880.00, paid to William H. Hammond and A. G. Wishon for promotion services.

In Railroad Commission's Exhibit No. 2, the auditing department reports additions and betterments from June 30, 1914, to June 30, 1915, amounting to \$133,257.13.

As already stated, the Mt. Whitney Company paid \$550,000.00 for the property of Tulare County Power Company, which it acquired on August 1, 1915.

The following tables show the book cost and the actual investment, as nearly as it can be ascertained, applicable to the properties of

Mt. Whitney Power and Electric Company and Tulare County Power Company on August 1, 1915:

TABLE No. IX.

Book costs and actual investment, Mt. Whitney Power and Electric Company and Tulare County Power Company, August 1, 1915.

	Book cost, Mt. Whitney Power and Electric Company, August 1, 1915	Actual investment, Mt. Whitney Power and Electric Company, August 1, 1915	Book cost, Tulare County Power Company, August 1, 1915	Actual investment, Tulare County Power Company, August 1, 1915
<i>Operative Capital.</i>				
Organization	\$1,027,106 82	\$49,880 00	\$18 75	
Franchise	1,027,106 82	5,708 53	6,751 12	\$6,532 27
Patent rights				237 60
Water rights, going concern, etc.	1,723 22	6,830 70	300,000 00	
Total intangible	\$2,055,936 86	\$62,119 23	\$306,769 87	\$6,769 87
Lands	\$58,825 63	\$22,994 89	\$2,372 85	\$1,583 00
Dams, water conduits and penstocks	987,215 82	\$34,354 00	19,513 13	
Power plant buildings and general structures	155,897 42	159,894 26	19,622 18	19,668 23
Hydraulic power plant equip- ment	200,735 48	219,741 58		
Furnaces, boilers and acces- sories	207,710 71	206,706 71	112,322 51	113,631 80
Steam power plant equipment	110,996 21	109,604 61	680 22	
Miscellaneous production equipment			109 82	
Transmission pole lines, wires, etc.	234,360 13	203,117 81	129,075 60	19,668 45
Distribution pole lines, wires, etc.	758,235 78	758,403 99	81,510 47	175,869 88
Substation buildings and general structures	72,063 25	77,479 05	2,193 41	2,136 86
Substation equipment	228,213 35	256,870 22	24,733 10	24,212 79
Miscellaneous equipment	10,834 46	13,706 51	703 99	
Line transformers and de- vices	37,378 10	37,378 10	13,543 23	14,921 42
Electric services	12,494 26	12,494 26	1,401 96	1,578 84
Meters	69,191 50	69,191 50	3,251 69	3,450 67
Municipal street lighting system	37,851 54	37,851 54		
Installations on consumers' premises			2,407 28	
Total plant	\$3,182,033 64	\$3,019,792 03	\$413,471 44	\$376,721 94
General structures	\$65,213 29	\$65,561 73	\$43 36	\$7 15
General office equipment		17,859 94	1,709 46	2,437 97
General shop equipment			30 77	
General store equipment	29,841 88		150 13	39 75
General stable and garage equipment		36,726 13	9,498 99	5,768 00
Miscellaneous equipment		112 73	460 39	1,416 96
Telephone lines	14,807 80	14,400 83	404 38	
Roads, trestles and bridges	96,339 24	97,159 00	769 74	
Total general capital	\$206,202 21	\$231,594 90	\$13,067 32	\$9,699 83

TABLE No. IX—CONTINUED.

Book costs and actual investment, Mt. Whitney Power and Electric Company and Tulare County Power Company, August 1, 1915.

	Book cost, Mt. Whitney Power and Electric Company, August 1, 1915	Actual Investment, Mt. Whitney Power and Electric Company, August 1, 1915	Book cost, Tulare County Power Company, August 1, 1915	Actual Investment, Tulare County Power Company, August 1, 1915
Engineering and superintend- ence -----		\$38,328 90	\$4,171 13	-----
Law expenses during con- struction -----		20,333 77	99 99	-----
Injuries and damages during construction -----		3,310 56	1,127 50	-----
Taxes during construction -----		494 12	1,042 46	-----
Miscellaneous construction expenditures -----	\$126,689 47	143,282 20	35,598 72	\$441 55
Total undistributed con- struction expenses -----	\$126,689 47	\$205,749 55	\$42,039 80	\$441 55
Interest during construction	\$37,734 97	\$80,970 33		-----
Bond expense -----		4,922 87		-----
Total tangible plant -----	\$3,552,660 29	\$3,543,029 68	\$468,578 56	\$386,863 32
Materials and supplies -----		\$64,272 70		\$6,802 07
Working capital -----		40,000 00		2,000 60
Grand total operative -----	\$5,608,597 15	\$3,709,751 61	\$775,348 43	\$402,435 26
Nonoperative capital -----	121,082 03	170,114 29		22,801 08
Grand total operative and nonoperative -----	\$5,729,679 18	\$3,879,865 90	\$775,348 43	\$425,236 34

(b) *Estimated reproduction cost new.* The Mt. Whitney Company presented an estimate of the cost to reproduce its physical properties on the historical reproduction method, prepared by the J. G. White Engineering Corporation as of August 3, 1915. The total as shown in the Mt. Whitney Company's Exhibit No. 12a is \$4,599,305.00.

Mr. Arthur F. Bridge of this Commission's gas and electrical department, prepared an estimated reproduction cost new of the physical properties as of June 30, 1915, based on the historical reproduction method. The estimate for the property of the Mt. Whitney Company as of June 30, 1915, is \$3,851,315.53. This estimate includes \$12,569.23 for intangible capital. Mr. Bridge also prepared an estimate of the cost to reproduce new the physical properties of Tulare County Power Company, the total of the estimate being as of February 1, 1915, \$470,043.87.

The testimony showed that the overhead percentages used by the J. G. White Engineering Corporation were materially in excess of the percentages used by the same company for the same property in a report filed with this Commission in Application No. 1394.

The following table shows the estimated historical reproduction cost of the property of the Mt. Whitney Company and of the Tulare County Power Company, as prepared by Mr. Bridge as of August 1, 1915, and the J. G. White Engineering Corporation estimate of the cost to reproduce new as of August 3, 1915:

TABLE No. X.

Estimated reproduction cost new of property of Mt. Whitney Power and Electric Company and Tulare County Power Company, August 1 and 3, 1915.

	Estimated historical reproduction cost Mt. Whitney Power and Electric Company, August 1, 1915, Bridge	Estimated historical reproduction cost Tulare County Power Company, August 1, 1915, Bridge	Consolidated historical reproduction cost, August 1, 1915, Bridge	Estimated reproduction cost new, combined properties, August 3, 1915, J. G. White Engineering Corporation
<i>Operative Capital.</i>				
Organization	\$49,880 00		\$49,880 00	
Franchise	5,708 53	\$7,316 15	13,024 68	
Patent rights		266 11	266 11	
Water rights, going concern, etc.	6,860 70		6,860 70	
Total intangible	\$62,449 23	\$7,582 26	\$70,031 49	
Lands	\$22,994 89	\$1,583 00	\$24,577 89	\$156,063 00
Dams, water conduits and penstocks	834,354 00		834,354 00	1,116,354 00
Power plant buildings and general structures	159,894 26	22,028 42	181,922 68	190,999 00
Hydraulic power plant equip- ment	219,744 58		219,744 58	230,111 00
Furnaces, boilers and acces- sories	206,706 71	127,267 62	443,578 94	192,758 00
Steam power plant equipment	109,604 61			224,109 00
Miscellaneous production equipment				132,352 00
Transmission polelines, wires, etc.	203,117 81	22,028 66	225,146 47	301,373 00
Distribution pole lines, wires, etc.	758,403 90	196,974 26	955,378 25	1,070,488 00
Substation buildings and general structures	77,479 05	2,393 28	79,872 33	72,715 00
Substation equipment	256,870 22	27,118 32	283,988 54	260,486 00
Miscellaneous equipment	17,601 17		17,601 17	318 60
Line transformers and de- vices	37,378 10	16,712 00	54,090 10	56,943 00
Electric services	12,494 26	1,768 30	14,262 56	31,910 00
Meters	69,191 50	3,864 75	73,056 25	89,739 00
Municipal street lighting system	37,851 54		37,851 54	39,825 00
Installations on consumers' premises				
Total plant	\$3,023,686 69	\$421,738 61	\$3,445,425 30	\$4,166,543 00

TABLE No. X—CONTINUED.

Estimated reproduction cost new of property of Mt. Whitney Power and Electric Company and Tulare County Power Company, August 1 and 3, 1915.

	Estimated historical reproduction cost Mt. Whitney Power and Electric Company, August 1, 1915, Bridge	Estimated historical reproduction cost Tulare County Power Company, August 1, 1915, Bridge	Consolidated historical reproduction cost, August 1, 1915, Bridge	Estimated reproduction cost new, combined properties, August 3, 1915, J. G. White Engineering Corporation
General structures	\$65,561 73	\$8 01	\$65,569 74	\$72,632 00
General office equipment.....	17,859 91	2,437 97	20,297 91	25,788 00
General shop equipment.....				12,519 00
General store equipment.....		39 75	39 75	
General stable and garage equipment	36,725 13	5,768 00	42,494 13	29,943 00
Miscellaneous equipment	112 73	1,446 96	1,334 23	
Telephone lines	14,400 83		14,400 83	35,663 00
Roads, trestles and bridges..	97,159 00		97,159 00	
Total general capital.....	\$231,594 90	\$9,700 69	\$241,295 59	\$176,565 00
Engineering and superintend- ence	\$38,328 90		\$38,328 90	
Law expenses during con- struction	20,333 77		20,333 77	
Injuries and damages during construction	3,310 56		3,310 56	
Taxes during construction...	494 12		494 12	
Miscellaneous construction expenditures	193,202 60	\$494 54	193,697 14	
Total undistributed con- struction expenditures..	\$255,669 95	\$494 54	\$256,164 49	Included above
Interest during construction	\$122,297 02		\$122,297 02	Ditto
Bond expense				
Total tangible plant.....	\$3,633,248 56	\$431,933 84	\$4,065,182 40	\$4,343,108 00
Materials and supplies.....	\$64,272 70	\$6,802 07	\$71,074 77	\$68,057 00
Working capital	40,000 00	2,000 00	42,000 00	
Grand total operative...	\$3,799,970 49	\$448,318 17	\$4,248,288 66	\$4,411,165 00
Nonoperative capital	170,909 14	25,135 04	196,044 18	188,140 00
Grand total operative and nonoperative	\$3,970,879 63	\$473,453 21	\$4,444,332 84	\$4,599,305 00

(c) *Estimated reproduction cost new less depreciation.* Mr. Bridge also prepared an estimate of historical reproduction cost new, less depreciation, of the physical property of the Mt. Whitney Company and the Tulare County Power Company as of August 1, 1915, with deductions for estimated loss in value due to duplication. He estimated that the normal accrued depreciation amounts to \$810,145.00, that the loss in value due to duplication is the sum of \$39,748.00, that the account of stores and supplies may be credited on account of distribution lines

which could be taken up and used elsewhere in the sum of \$18,622.00, and that the net loss due to duplication of property of the Mt. Whitney Company and the Tulare County Power Company is \$21,126.00. The duplicated property consists of about seventy-six miles of distribution lines. Mr. Bridge concludes that the estimated historical reproduction cost new less depreciation and loss in value due to duplication, of the combined properties of the Mt. Whitney Company and the Tulare County Power Company, as of August 1, 1915, was \$3,613,061.00.

As already indicated, the service accorded by the Mt. Whitney Company is excellent and its property is being operated efficiently.

(d) *Franchises.* The Mt. Whitney Company claims the following municipal and county franchises:

(1) Franchise dated November 9, 1898, granted by the board of supervisors of Tulare County to William H. Hammond, for the term of fifty years, for the production, transmission, and application of electric energy in all its forms in Tulare County.

(2) Franchise dated June 12, 1889, granted by the council of the city of Visalia to Thomson-Houston Electric Company, without limit as to duration, for the transmission of electric energy in the city of Visalia.

(3) Franchise dated May 25, 1887, granted by the council of the city of Visalia to Visalia Gas and Electric Company, without limit as to duration, for the transmission of electric energy in the city of Visalia.

(4) Franchise dated November 15, 1890, granted by the board of trustees of the city of Tulare to Tulare Gas Company, for a term of fifty years, for the transmission of electricity for all purposes in the city of Tulare.

(5) Franchise dated November 20, 1899, granted by the board of trustees of the city of Tulare to William H. Hammond, for fifty years, for the distribution, use, and sale of electricity in the city of Tulare.

(6) Franchise dated December 31, 1908, granted by the board of supervisors of Kern County to Mt. Whitney Power Company, for fifty years, for the transmission of electric energy in the unincorporated town of Delano.

(7) Franchise dated February 25, 1909, granted by the board of supervisors of Kern County to Mt. Whitney Power Company, for fifty years, covering the transmission of electric energy in a designated portion of Kern County.

(8) Franchise dated July 12, 1910, granted by the board of supervisors of Kern County to the Mt. Whitney Power and Electric Company, for fifty years, for the transmission of electric energy in a designated portion of Kern County.

Mr. W. M. Wells, this Commission's right of way expert, made a careful investigation into the original cost of all the franchises thus claimed by the Mt. Whitney Company. He testified that \$207.50 was

paid to the various political authorities which granted these franchises and estimated the expenses for advertising at \$100.00 for each franchise, thus making a total original cost of \$807.50.

Mr. C. L. Cory, testifying in behalf of the Mt. Whitney Company, presented a report with reference to the value of the franchises thus claimed by the Mt. Whitney Company, which report was marked "Mt. Whitney Company's Exhibit No. 44." Mr. Cory first reports that the capitalization of the value of those franchises on which a percentage of gross revenues need not be paid, in comparison with franchises under which such payment must be made, results "in obtaining fictitious and unsound values for franchises which are exempt from such annual percentage of the gross revenue payments." He draws attention to the obvious fact that the percentages of gross revenues paid by various utilities as taxes are always taken care of under the head of operating expenses. Mr. Cory then concludes that the ownership of long term municipal and county franchises greatly facilitates all construction work and in this way results in a value which, however, is "very difficult to approximate." Stating frankly that he has not attempted to arrive at any conclusion by any exact mathematical process, Mr. Cory testified that on the basis of facilitation of construction work by reason of the length of their term, the franchises of the Mt. Whitney Company "have an economic, constructive and operative value of not less than \$150,000.00 to \$175,000.00." In response to a question from the presiding Commissioner as to whether, in his opinion, any value should be allowed for public utility franchises in a rate case, Mr. Cory answered:

"I will be frank to answer you this, that I have not presented in this report, nor do I now present any argument whatsoever that, in my opinion, any value of the franchises should be included for rate fixing purposes. That is a matter, I take it, for legal decision rather than an expression of opinion."

Without pausing to consider the merits of the particular method by which Mr. Cory reached his conclusion with reference to the value of the county and municipal franchises of the Mt. Whitney Company, I shall address myself directly to the question whether in a rate case any value should be allowed for a public utility franchise in excess of the amount which was actually paid at the time of its grant to the public authority which granted the franchise, together with incidental expenses.

I have always been of the opinion that in such a case, in which public utility rates are being established, no allowance can properly be made for franchises in excess of the amount paid to the public authority which granted the franchise, together with the incidental advertising and similar expenses. I have never been able to understand how it can be urged, with any degree of justice, that when the public has granted

a franchise to a public utility for the purpose of rendering service to the public, the utility should have the right to immediately turn around and capitalize the public's generosity. It must be remembered that all franchises granted to public utilities are granted subject to the right of the public to insist that the public shall be served at rates which are just and reasonable. What there is, either in justice or reason, which should authorize a utility to capitalize against the public the very means which the public has granted so that it may be justly and reasonably served, I have never been able to understand. I desire, furthermore, to suggest that if the utilities should ultimately be successful in establishing the right to capitalize these franchises against the public, the public will promptly cease granting franchises to public utilities and will itself own and operate its own utilities. What value can be assigned in a rate case to a franchise granted to a public utility when the public can, without the expenditure of a single dollar for this item, itself supply the service rendered by the utility?

I have given careful consideration to the authorities on this question and am of the opinion that the great weight of authority is to the effect that in a rate case no allowance should be made for franchises in excess of the consideration originally paid to the public authority which granted them, together with the expenses originally incurred in the acquisition of the franchises.

The leading case on this subject is *Willcox vs. Consolidated Gas Company*, 212 U. S. 19, decided on January 4, 1909. In 1906 the New York State Gas and Electricity Commission issued an order reducing the price of gas charged by the Consolidated Gas Company in New York City from \$1.00 to 80 cents per 1,000 cubic feet. Shortly afterward the state legislature passed an act to the same effect.

The New York State Gas and Electricity Commission refused to allow any value for the franchises of Consolidated Gas Company. United States Circuit Judge Lacombe, in granting an application for a continuance of the preliminary injunction against the enforcement of said rate, took issue with the Gas and Electricity Commission and held that a franchise is property in the hands of its holder, to which property a value must be assigned in a rate case. The special master to whom the case was referred fixed a value of \$20,000,000.00 for the franchises of Consolidated Gas Company. United States Circuit Judge Hough reduced this value to \$12,000,000.00. On appeal to the Supreme Court of the United States the value was further reduced to the sum of \$7,781,000.00. Mr. Justice Peckham, in delivering the opinion of the Supreme Court, allowed the sum of \$7,781,000.00, apparently for the reason that this value had been agreed upon between Consolidated Gas Company and the legislature of the State of New York in a statute passed in

1884. In refusing to allow any additional value for the growth in the value of the franchise subsequent to 1884, Mr. Justice Peckham said:

“But although the state ought, for these reasons, to be bound to recognize the value agreed upon in 1884 as a part of the property upon which a reasonable return can be demanded, we do not think an increase in that valuation ought to be allowed upon the theory suggested by the court below. Because the amount of gas supplied has been increased to the extent stated, and the other and tangible property of the corporation has increased so largely in value, is not, as it seems to us, any reason for attributing a like proportional increase in the value of the franchises.”

Mr. Justice Peckham concludes this branch of the discussion as follows:

“What has been said herein regarding the value of the franchises in this case has been necessarily founded upon its own peculiar facts, and the decision thereon can form no precedent in regard to the valuation of franchises generally, where the facts are not similar to those in the case before us. We simply accept the sum named as a value under the circumstances stated.”

While Mr. Justice Peckham confines his opinion to the facts of the case, it seems obvious that on any theory which has hitherto been presented for ascertaining the value of a utility's franchises, the franchises of Consolidated Gas Company must have had a value in 1906 far in excess of their value in 1884. Hence, if the Supreme Court had been of the opinion that it is, in general, proper to make an allowance for franchise value in a rate case, the Supreme Court would have been driven to make an allowance for franchise value in excess of the amount agreed upon in 1884 between the Consolidated Gas Company and the people of the State of New York, acting through their legislature. The failure of the Supreme Court to make any allowance for franchise value in excess of the sum thus agreed upon in 1884, is, to my mind, conclusive evidence that in the absence of any such agreement between the utility and the state the Supreme Court would have made no allowance for franchise value in the Consolidated Gas Company case.

It is significant that although many cases involving public utility rates established by various public authorities have come before the Supreme Court of the United States for review, in no case other than in the Consolidated Gas Company case, in so far as I have been able to ascertain, has any value been allowed for franchises in excess of the amount originally paid for them to the public authority which granted them. In the most recent case decided by the Supreme Court of the United States with reference to the validity of a public utility rate established by a public authority, being the case of *Des Moines Gas Company vs. City of Des Moines*, 238 U. S. 153, decided on June 14, 1915, the Supreme Court sustained the judgment of the District Court of the United States

for the Southern District of Iowa, which court refused to grant an injunction against the enforcement of the rates for gas established by the city of Des Moines. The District Court made no allowance for the value of franchises.

The most recent decision by any state court on this question, in so far as I have been able to ascertain, is the decision of the Court of Errors and Appeals of New Jersey, rendered on June 14, 1915, in *Public Service Gas Company vs. Board of Public Utility Commissioners*, being a rehearing in the so-called *Passaic Gas* case. This decision arose out of a decision of the New Jersey Board of Public Utility Commissioners, rendered on December 26, 1912, in a case entitled *In re rates of Public Service Gas Company*, which is reported in 1 N. J. B. P. U. C. 433. In this case, the board reduced the rates of the Public Service Gas Company for gas supplied in the Passaic District of New Jersey from \$1.10 per 1,000 cubic feet, with a discount of 10 cents for prompt payment, to 90 cents per 1,000 cubic feet. In valuing the property, the board allowed a lump sum of \$1,025,000.00 to cover all intangible property. Referring to this item the board said:

"It is quite obvious that our finding as to the total amount of intangible property (\$1,025,000.00) is tantamount to including the franchises of the company at a moderate rating, at a value comparable with the cost of obtaining these or similar franchises. It amounts, therefore, to a practical denial of the company's contentions as to the value of its franchises."

The company claimed a value of \$1,392,235.00 for its franchises.

The decision of the New Jersey Board of Public Utility Commissioners in this case was taken by writ of review to the Supreme Court of New Jersey, which court, in *Public Service Gas Company vs. Board of Public Utility Commissioners*, 87 Atl. 651, decided on July 7, 1913, affirmed the decision of the Board of Public Utility Commissioners. Judge Swayze, in discussing the question whether an allowance should be made for franchises, refers to the authorities to the effect that franchises are property, but points out that they are property "of a peculiar kind" and that "the right of property in them is not absolute, but is qualified by the right of the state to fix reasonable rates." He points out that "to assume a value for the franchise in order to determine the reasonableness of the rate is to reason in a circle; the value and the rate are mutually dependent, and one must be fixed independently if it is to form a basis for the calculation of the other." In upholding the Board of Public Utility Commissioners in the matter of franchise values, Judge Swayze, at page 657 of the Reporter, says:

"Since it is in the power of the state to bring about a supply without compelling the public to pay on the franchise valuation, beyond the actual cost of procuring it, it would be likely to do so,

and the effect would be to destroy the value of the special franchise of the existing company. These considerations lead us to the conclusion that logically no allowance should be made for the value of the special franchise in a case where it is not legally exclusive, and where the state still retains the right to fix rates. That is the present case."

An appeal was taken both by the Public Service Gas Company and by the cities of Passaic and Paterson from the decision of the Supreme Court of New Jersey to the New Jersey Court of Errors and Appeals, which court on December 10, 1914, rendered a decision, with four justices dissenting, reversing the judgment of the Supreme Court. Judge Parker, in presenting the majority opinion, refers to the authorities holding that franchises are property and holds that franchises may have a value considerably in excess of the cost of acquisition and that such value must be allowed in rate cases. The court held that the Board of Public Utility Commissioners and the Supreme Court of New Jersey were both in error in refusing to allow any value for franchises in excess of the cost of acquisition.

Finally, on petitions for rehearing, the Court of Errors and Appeals reversed itself, four justices dissenting, on the question of franchise value, upheld the decision of the state Supreme Court and affirmed the order of the Board of Public Utility Commissioners. This decision was rendered on June 14, 1915. *Public Service Gas Company vs. Board of Public Utility Commissioners*, 94 Atl. 634; P. U. R. 1915 E, 251. In reversing its former position and in sustaining the Board of Public Utility Commissioners and the Supreme Court in the matter of franchise values, the Court of Errors and Appeals said:

"The plain fact is that the commercial value of the company's property right in its franchise can have no effect in fixing the rate it can charge, because by the terms of its contract with the state the stream of its franchise value arises from the spring of its right to charge 'reasonable rates,' and in the very nature of things no stream can arise higher than its source."

The only rate cases which have come under my observation in which an additional value was specifically allowed for the utility's franchises are *Louisville and Nashville Railroad Company vs. Railroad Commission of Alabama*, 196 Fed. 800, and *Western Alabama Railway vs. Railroad Commission of Alabama*, 197 Fed. 954. In a number of cases, the court intimated that a franchise value would have been allowed if proved, but sufficient evidence was not presented: *Spring Valley Waterworks vs. San Francisco*, 124 Fed. 574, 165 Fed. 667, 192 Fed. 137; *San Joaquin and Kings River Canal and Irrigation Company vs. County of Stanislaus*, 191 Fed. 875.

On the other hand, a large number of courts and commissions have expressly disallowed a value for franchises in rate cases: *Lincoln Gas and Electric Light Company vs. City of Lincoln*, 182 Fed. 926; *Cumberland Telephone and Telegraph Company vs. City of Louisville*, 187 Fed. 637; *Home Telephone Company vs. City of Carthage*, 235 Mo. 644, 139 S. W. 547; *Savannah and Suburban Street Railway Improvement Association vs. Savannah Electric Company*, Georgia Railroad Commission, decided January 5, 1912; *Application of Macon Railway and Light Company*, Georgia Railroad Commission, 29 A. T. & T. Co. Com. L. 1072; *Sandpoint vs. Sandpoint Water and Light Company*, Idaho Public Utilities Commission, P. U. R. 1915 F. 445, 459; *Taylor vs. Northwest Light and Water Company*, Idaho Public Utilities Commission, P. U. R. 1916 A. 372; *In re Haverhill Petitions*, Mass. Board of Gas and Electric Light Commissioners, decided December 31, 1912; *Application of Lincoln Telephone and Telegraph Company*, Nebraska Railway Commission, 19 A. T. & T. Co. Com. L. 134; *Fuhrman vs. Buffalo General Electric Company*, New York Public Service Commission (Second District), 3 P. S. C. 2d D. (N. Y.) 739; *Public Service Commission ex rel. Seattle vs. Seattle Lighting Company*, Washington Public Service Commission, P. U. R. 1915 B. 135, 140; *Hill vs. Antigo Water Company*, Wisconsin Railroad Commission, 3 W. R. C. R. 623, 723-30; *City of Appleton vs. Appleton Water Works Company*, Wisconsin Railroad Commission, 5 W. R. C. R. 215, 283, 284.

Section 52 of the Public Utilities Act of California provides in part as follows:

“The commission shall have no power to authorize the capitalization of the right to be a corporation, or to authorize the capitalization of any franchise or permit whatsoever or the right to own, operate or enjoy any such franchise or permit, in excess of the amount (exclusive of any tax or annual charge) actually paid to the state or to a political subdivision thereof as the consideration for the grant of such franchise, permit or right.”

The State of California has thus declared a state policy which is as applicable to a rate case as to an issue of securities. This policy is in harmony with the logic and the equity of the situation as well as the overwhelming weight of authority.

An allowance is being made herein for all moneys paid to counties and municipalities for the franchises claimed by the Mt. Whitney Company (exclusive of any tax or annual charge), together with all advertising and other incidental expense in connection therewith. Further than to this extent, no additional allowance is made herein for franchise values.

(e) *Going concern value.* Mr. R. A. Gulick, testifying in behalf of the Mt. Whitney Company, presented one estimate of \$205,010.00, and

another estimate of \$190,765.00 as representing the value of the Mt. Whitney Company's business.

The first estimate was presented on the cost of reproduction theory and is the assumed cost of reproducing the business of the Mt. Whitney Company, based upon the average cost of securing new business for the years 1913 and 1914.

The second estimate is based on the cost of reproduction theory and on the estimated cost of securing new business and is founded upon the relationship between the cost of securing new business and increased revenues.

Mr. Gulick testified that, in his opinion, the earnings of the Mt. Whitney Company and its predecessors have been sufficient to repay the entire cost of developing the company's business, as well as all other operating expenses, a fair return on the investment and a reasonable allowance for depreciation. Mr. Gulick's opinion on this point is borne out by the facts as shown by the various exhibits on file. The Mt. Whitney Power Company, the present utility's predecessor, paid during its existence dividends of \$50,000.00 in cash and \$135,839.91 in stock dividends, representing surplus. This Commission's auditing department reports that this latter dividend is equivalent to a cash dividend. The Mt. Whitney Power Company, in addition to paying all operating expenses, depreciation, and interest, thus paid dividends amounting to \$185,839.91 on a cash investment in capital stock amounting to \$200,120.00. The amounts thus paid in dividends between 1899 and 1909 amount to about 93 per cent of the cash invested in capital stock. If the stock of the par value of \$49,880.00 issued to William H. Hammond and A. G. Wishon for promotion services, is also regarded as having been issued for cash, so that the total amount invested in the capital stock of the Mt. Whitney Power Company be regarded as \$250,000.00, the dividends paid by the Mt. Whitney Power Company would amount to about 70 per cent of the investment in the capital stock. It should also be remembered that when Mt. Whitney Power Company sold to Mt. Whitney Power and Electric Company in 1909, the former company had accumulated a surplus of \$249,709.50. Very evidently there was no deficiency in return during the operations of the Mt. Whitney Power Company. Turning now to the Mt. Whitney Power and Electric Company, the present utility, the evidence shows that the utility paid a 7 per cent cumulative dividend on preferred stock of the par value of \$750,000.00 up to February 1, 1915, at or about which time the preferred stock was retired in exchange for an issue of common stock of the same par value. It should be borne in mind in this connection that the total amount of common stock of the Mt. Whitney Power Company plus the surplus of that company at the time it was

taken over by the present utility, represented a total cash investment of approximately \$635,549.43, although a 7 per cent dividend has been regularly declared on preferred stock of the par value of \$750,000.00. This Commission's auditing department reports that during the year ending December 31, 1915, the Mt. Whitney Company made a net addition to surplus for the year of \$175,824.34. Out of this sum a dividend of \$48,125.00 was paid.

It abundantly appears from these facts and from other facts in the record herein, that the Mt. Whitney Power Company and its predecessor have made good all possible losses below a reasonable return on the investment, and that there are no deficits which must be taken care of in any way.

Under these circumstances, under the principles this day being established in the San Joaquin Light and Power Corporation cases, no allowance should be made, or is being made herein, for so-called "going concern value" in addition to the allowance for the company's tangible properties.

(f) *Water rights.* The Mt. Whitney Company claims the right to use the waters of the various forks of the Kaweah River in so far as necessary in connection with the operation of its Kaweah Power Plants Nos. 1, 2, and 3 and the waters of the Tule River in connection with the operation of its Tule Power Plant No. 1. It is not necessary at this time to consider the question of water rights in connection with developments which have been undertaken but not as yet completed. Mr. W. M. Wells, this Commission's real estate expert, reports in Railroad Commission's Exhibit No. 4 that he has been able to ascertain that \$7,861.20 was paid by the Mt. Whitney Company and its predecessors for their water rights, of which amount \$6,861.20 was paid to Globe Light and Power Company and \$1,000.00 to landowners named Lovelace and Johnson. The remaining water rights of the Mt. Whitney Company were acquired principally through appropriations and government permits. There is no record to show accurately the expense to the company in connection with these appropriations and permits. All expenses, however, are included in the total investment hereinbefore set forth.

The Mt. Whitney Company, through Mr. R. A. Gulick, presented an estimate of the value of the company's water rights based on comparison with the cost of a substitutional steam plant. Mr. Gulick's report was filed as Mt. Whitney Company's Exhibit No. 39. The report as at first presented showed a value of the company's water rights on this basis of \$46,700.00. Mr. Gulick, however, revised certain computations with reference to the depreciation annuities of the present production system and of the substitutional steam plant and reached the conclusion that the value of the water rights should be increased, as the result of these

computations, from \$46,700.00 to \$114,900.00. Mr. Gulick assumed that the value of the Mt. Whitney Company's water rights is the amount on which the difference between the annual cost of operation, using the water rights, and the cost of operation, using as a substitute a modern steam turbine plant, will pay interest. By cost of operation is here meant the sum of the costs for operation, maintenance, interest, and depreciation. Mr. Gulick assumes that all the costs of the system, except the generation or production costs, will be the same whether the electric energy is generated entirely by steam or by a combined steam and hydroelectric system, as at present. Mr. Gulick assumes that a 15,000 kilowatt steam plant installed in Tulare County on some point of the transmission loop will be equivalent in capacity for service to the present combined steam and hydroelectric plants and that such a plant can be installed complete for \$825,000.00 on land valued at the same amount as the site of the present steam plant at Visalia, namely \$3,791.00. Mr. Gulick assumes a price of 70 cents per barrel for fuel oil at Visalia.

It is difficult to understand why Mr. Gulick locates the substitutional steam plant at Visalia rather than at a point nearer the oil fields where the fuel cost would undoubtedly be much lower than he has assumed. Within a radius of approximately 60 miles from the center of the territory served by the Mt. Whitney Company there are several of the principal oil producing fields of the State, where undoubtedly fuel oil would be available in any quantity at a cost not to exceed 50 cents per barrel at the present time. It is reasonable to assume that electric energy could be transmitted from a plant so located to the distribution center of the company's system with a loss well within that existing on the present transmission system of this company. It is also apparent that the present total transmission mileage would not have to be increased to give adequate transmission facilities to supply the present distribution network. It is also noted that Mr. Gulick assumes that a substitutional steam plant having a capacity of 15,000 kilowatts would be required, notwithstanding the fact that the present total rated capacity, in both hydroelectric and steam driven plants, is but 14,800 kilowatts, including the Tulare steam plant with a capacity of 1,200 kilowatts, which it has not been necessary to operate since the Mt. Whitney Company acquired the properties of the Tulare County Power Company. The system peak of the consolidated systems for the year 1915 was approximately 11,500 kilowatts and the total output of the generating plants plus purchased energy during the same year was approximately 57,561,000 kilowatt hours. In this connection I desire to point out one glaring inconsistency in the theory here presented by Mr. Gulick, which if followed to its logical conclusion would indicate that the value of a water right varies in some inverse ratio with the magnitude of the

business transacted. In other words, upon this theory which assumes that the next available source is a steam plant capable of handling only the business of the particular utility, the smaller the company the more valuable its water rights. This conclusion is unavoidable if we accept the substitutional steam plant theory which has often been presented and upon which Mr. Gulick bases his calculations, and arises from the fact that the cost of electric energy produced by a steam generating plant varies greatly with the size of the plant and is very much more expensive in small plants, other conditions being equal, than in large plants.

It is unnecessary to discuss further the theory here presented. I simply wish to point out that the so-called substitutional plant theory is nothing more nor less than an attempt to measure the value of a given property by the value or worth of the service, and obviously should not be confined to the production system only. Assuming, however, merely for the purpose of computation, the validity of the theory, this Commission has prepared an independent estimate, using wherever possible Mr. Gulick's basis of calculation. The following table shows the cost of operating an equivalent steam plant to take the place of the Mt. Whitney Company's present production system as estimated by Mr. Gulick and the Commission:

TABLE No. XI.

Cost of operating substitute steam plant—Gulick and Railroad Commission.

	Gulick	Railroad Commission
Capital investment:		
15,000 kilowatt steam plant.....	\$856,791 00	
14,000 kilowatt steam plant.....		\$770,000 00
Fixed charges:		
Interest	\$68,513 00	\$61,600 00
Depreciation	18,050 00	12,320 00
Maintenance	15,000 00	9,625 00
Insurance, etc.	1,500 00	1,348 00
Totals	\$103,063 00	\$84,893 00
Operating cost:		
Operating expense (less fuel).....	\$21,000 00	\$20,000 00
Fuel to produce 41,737,000 kilowatt hours.....	132,800 00	
Fuel to produce 57,561,000 kilowatt hours.....		130,820 00
Totals	\$153,800 00	\$150,820 00
Total cost	\$256,863 00	\$235,713 00

The working capital is estimated in each instance to be approximately two months' operating and maintenance expenses. These expenses, however, are different in the two estimates as will hereinafter appear. The cost of fuel oil is assumed by Mr. Gulick to be 70 cents per barrel at Visalia, although the Mt. Whitney Company now purchases its fuel

oil at 65 cents per barrel at Visalia. The Commission's estimate is based on a price of 50 cents per barrel. Mr. Gulick makes an allowance for depreciation annuity amounting to 2.106 per cent on the assumed investment of \$856,791.00, while this Commission's engineers make an allowance of 1.60 per cent based on the allowance made in a large number of cases before this Commission. The difference in interest is due to the difference in capital. It will thus be observed that Mr. Gulick reports a total cost of operating the comparative steam plant under the conditions of 1914, amounting to \$256,863.00, while the Commission's estimate is \$235,713.00 under 1915 conditions, subsequent to the acquisition of the properties of Tulare County Power Company.

The following table shows the cost of operating the Mt. Whitney Company's present hydroelectric system as estimated by Mr. Gulick and by the Railroad Commission:

TABLE No. XII.

Cost of operating present hydroelectric system of Mt. Whitney Power and Electric Company—Gulick and Railroad Commission.

	Gulick	Railroad Commission
Reproduction cost:		
Kaweah No. 1.....	\$195,229 00	\$195,229 00
Kaweah No. 2.....	274,097 00	274,097 00
Kaweah No. 3.....	664,247 00	674,211 00
Tule No. 4.....	385,537 00	385,537 00
Steam plant at Visalia.....	407,975 00	418,174 00
Steam plant at Tulare.....		149,296 00
General production capital.....	4,190 00	4,295 00
Telephone lines, etc.....	14,401 00	
Operative lands production.....	13,155 00	18,150 00
Rights of way transmission.....	3,865 00	
Twenty-nine per cent of total transmission capital used to deliver power from hydro plants to valley loop.....	54,576 00	
Estimated working capital (approximately 2 months' operation and maintenance).....	8,000 00	16,150 00
Totals	\$2,025,272 00	\$2,135,139 00
Expenses of operation and maintenance:		
Operation and maintenance for 1911.....	56,128 00	
Operation and maintenance for 1915.....		96,893 00
Twenty-five per cent of transmission expense chargeable to hydraulic power houses.....	4,879 00	
Interest at 8 per cent on total capital involved.....	162,022 00	170,811 00
Estimated depreciation annuity:		
Kaweah No. 1.....	3,417 00	34,677 00
Kaweah No. 2.....	3,180 00	
Kaweah No. 3.....	3,321 00	
Tule No. 4.....	7,411 00	
Visalia steam plant.....	6,722 00	2,788 00
Tulare steam plant.....		
Transmission lines.....	1,062 00	
Telephone system.....	444 00	
Correction to above.....	38 00	
Insurance on steam plants at .175 per cent.....		993 00
Total annual cost of operation of present system.....	\$248,654 00	\$306,162 00

Mr. Gulick estimates an investment in the Kaweah Plant No. 3 amounting to \$664,247.00, while this Commission estimates an investment of \$674,211.00. The reason for the increased estimate of the Railroad Commission is due to the fact that the Commission has added an amount for general administration expense chargeable to capital, while Mr. Gulick's estimate is based on a preliminary report which did not contain this item. The same fact accounts for the difference in assumed investment in the steam plant, and general production equipment. The Commission's estimate on operative lands used in production, is in excess of Mr. Gulick's estimate for the reason that Mr. Gulick has omitted the item of \$3,791.00 for lands appurtenant to the Visalia steam plant, and \$1,204.00 for lands appurtenant to the Tulare steam plant.

The Commission's larger estimate for working capital is due to a larger estimate for operating expenses, as appears later in the table. The difference in depreciation annuity results from a difference in assumed life of the various portions of the property. The Commission's engineers have applied an annuity of 1.780 per cent to the assumed investment in the hydroelectric plants and the steam plants. In view of the fact that Mr. Gulick has allowed an item of \$1,500.00 for insurance for the comparative steam plant, being .175 per cent on the \$856,791.00 invested, the Commission has made an allowance on the same basis for insurance on the present steam plants amounting to \$993.00. This has been done to make the two estimates comparable.

The following table shows in summary form the comparison between the estimates of Mr. Gulick and of the Railroad Commission:

TABLE No. XIII.

Comparison of water right values on comparative steam plant basis, of Mt. Whitney Power and Electric Company—Gulick and Railroad Commission.

	Gulick	Railroad Commission
Annual expenses of an equivalent steam plant.....	\$256,863 00	\$235,713 00
Annual expense of the present hydroelectric system.....	248,654 00	306,162 00
Saving due to operation of hydroelectric system.....	\$8,209 00	\$70,449 00
Value of water rights based on above saving as an 8 per cent return.....	102,613 00	880,613 00

It will be observed that while on the basis of Mr. Gulick's estimates the water rights of the Mt. Whitney Company have a value of \$102,613.00 based on a capitalization of the assumed saving on an 8 per cent basis, the Railroad Commission's estimate, on the same theory, results in a negative value of \$880,613.00, with fuel oil at 50 cents per barrel. This negative value will be decreased as the price of fuel oil increases.

The principal points of difference, as will no doubt have been observed, is in the cost of fuel oil and in the allowance for depreciation annuity.

The differences between the estimate of Mr. Gulick and this Commission, each applying the same theory, create considerable doubt with reference to the validity of a method of ascertaining water right values, based upon this theory. Furthermore, while today the fuel market might be such as to give an affirmative value to a utility's water rights, the quotations of next month might reduce such value to less than nothing. Stability of rate regulation under such conditions would of course be impossible.

In my opinion, we should not speculate in futures in ascertaining water right values. At the present price of oil the Mt. Whitney Company's water rights, under Mr. Gulick's own computations, have a value considerably less than nothing. Hence, I am unwilling to add to the investment in property an allowance for water right values in excess of what has been paid for them.

(g) *Fair return.* The following table shows the fair value of the property of the Mt. Whitney Company, including the property owned by Tulare County Power Company, as of June 30, 1915, for the purpose of these proceedings, with the necessary additions for additions and betterments for one year, the necessary sums to be added to capital account in connection with the reconstruction of transmission and distribution lines under chapter 499 of the Laws of 1911 and chapter 600 of the Laws of 1915, and the necessary cost of taking over the transformers hitherto owned by the Mt. Whitney Company's consumers, together with a reasonable depreciation annuity:

TABLE No. XIV.

Fair value of property of Mt. Whitney Power and Electric Company, together with reasonable depreciation annuity.

	Fixed capital	Depre- ciation annuity
INTANGIBLE CAPITAL.		
C-1. Organization	\$51,127	-----
C-2. Franchise	1,628	\$6
C-4. Other intangible capital.....	7,924	-----
Total intangible capital.....	\$60,679	\$6
TANGIBLE CAPITAL.		
<i>Landed Capital.</i>		
C-5. Land devoted to electric operation:		
(a) Land devoted to production operations.....	\$15,882	
(c) Land devoted to distribution operations.....	17,273	
(e) Land devoted to other operation.....	15,040	
Total land devoted to electric operations....	\$48,195	
<i>Production Capital.</i>		
C-6. Dams, water conduits and penstocks.....	\$1,004,508	\$10,319
C-7. Power plant buildings and general structures.....	214,858	4,572
C-8. Hydraulic power plant equipment.....	265,091	7,206
C-9. Furnaces, boilers and accessories.....	308,970	5,632
C-10. Steam power plant equipment.....	203,358	3,707
Total production capital.....	\$1,996,785	\$31,436
<i>Transmission and Distribution Capital.</i>		
C-14. Poles and fixtures:		
(a) Transmission	\$132,486	\$3,602
(b) Distribution	547,984	14,899
C-15. Overhead system:		
(a) Transmission	97,128	872
(b) Distribution	387,362	3,476
C-17. Substation buildings and general structures:		
(b) Distribution	82,853	471
C-18. Substation equipment:		
(b) Distribution	289,032	7,857
C-19. Miscellaneous equipment:		
(b) Distribution	18,129	643
C-20. Line transformers and devices.....	301,394	8,193
C-21. Electric services	14,429	620
C-22. Meters	74,618	3,206
C-23. Municipal street lighting system.....	39,072	1,679
Total transmission and distribution capital....	\$1,984,487	\$45,518
<i>General Capital.</i>		
C-27. General structures	\$68,356	\$442
C-28. General equipment	66,252	8,750
C-29. Telephone lines	14,833	480
C-30. Roads, trestles and bridges.....	99,516	18
Total general capital.....	\$248,957	\$9,690
Total tangible capital.....	\$4,278,424	\$86,644
Material and supplies.....	\$78,540	-----
Working capital	58,333	-----
Construction capital	410,221	10,689
Grand totals	\$4,886,197	\$97,339

I recommend that a return of 8 per cent on the above fair value of the property of the Mt. Whitney Company be allowed in this proceeding. Railroad Commission's Exhibit No. 3 shows that the average cost of bond money to the Mt. Whitney Company and its predecessor has been 6.8668 per cent. The margin herein allowed above the cost of money to the Mt. Whitney Company will be sufficient to induce such capital as may be necessary for additions, betterments, and extensions, to seek investment in the property of the Mt. Whitney Company.

I find as a fact that the sum of \$387,295.76 is a just and reasonable annual allowance for return on the fair value of the property of the Mt. Whitney Company as herein found, used and useful in its service to the public.

3. *Operating expenses.*

The following table shows the operating expenses of the Mt. Whitney Company for the year ending December 31, 1914, and operating expenses for the Tulare County Power Company for the same year, the sum of the operating expenses of the two companies for 1914, the operating expenses for the Mt. Whitney Company for the year ending December 31, 1915, the operating expenses for Tulare County Power Company from January 1, 1915, to August 1, 1915, the sum of the operating expenses of the two companies for the year 1915, and reasonable annual operating expenses to be incurred by the Mt. Whitney Company, as shown by the evidence in these proceedings:

TABLE No. XV.
Operating expenses of Mt. Whitney Power and Electric Company for the years ending December 31, 1914 and 1915, and reasonable operating expenses herein determined.

Acct. No.	Account	Mt. Whitney Power and Electric Company, 1914	Tulare County Power Company, 1914	Total both companies, 1914	Mt. Whitney Power and Electric Company, 1915	Tulare County Power Company, 1915 (7 months)	Total both companies, 1915	Operating expenses used in rate determination
<i>Production Expenses.</i>								
E-1.	Superintendence	\$116 60	\$1,645 71	\$1,762 31	\$2,990 09	\$1,079 60	\$4,069 69	\$3,000 00
E-2.	Water collection, labor and expense	3,225 93		3,225 93	7,237 90		7,237 90	11,000 00
E-4.	Steam generation labor	1,250 54	2,502 54	3,753 18	2,837 40	1,601 97	4,439 37	3,000 00
E-5.	Fuel for steam	7,657 05	33,538 34	41,195 39	29,686 33	23,879 59	53,565 92	47,525 00
E-6.	Steam generator supplies	512 05	1,429 87	1,941 92	1,302 42	748 80	2,051 22	1,500 00
E-12.	Electric plant labor	12,519 33	962 43	13,481 76	10,311 55	645 92	10,957 47	11,300 00
E-13.	Electric plant supplies	979 98		979 98	584 12		584 12	600 00
E-14.	Electric energy from other sources		37,352 35	37,352 35	17,922 16	15,679 70	33,601 86	
E-15.	General labor and supplies	5,259 75	114 33	5,374 08	7,113 57	52 51	7,166 08	4,100 00
	Total operating production expenses	\$31,521 33	\$77,545 57	\$109,066 90	\$79,985 54	\$43,688 09	\$123,673 63	\$85,025 00
E-16.	Repairs to dams, water conduits and penstocks							
E-17.	Repairs to power plant buildings and general structures	\$8,849 05		\$8,849 05	\$7,680 03		\$7,680 03	\$7,800 00
E-18.	Repairs to hydraulic power plant equipment	1,750 55	\$4 34	1,754 89	2,143 66		2,143 66	2,600 00
E-19.	Repairs to boilers, furnace and accessories	8,953 44		8,953 44	5,080 44		5,080 44	6,800 00
E-20.	Repairs to steam power plant equipment	2,818 82	2,609 62	5,428 44	1,630 31	\$508 98	2,139 29	4,135 00
E-23.	Repairs to miscellaneous production equipment	679 56	902 58	1,582 14	1,411 14	1,222 90	2,634 04	2,145 00
	Total maintenance production expenses	1,564 56		1,564 56	660 14		660 14	660 00
	Total maintenance production expenses	\$24,615 98	\$3,516 54	\$28,132 52	\$18,605 72	\$1,731 88	\$20,337 60	\$24,140 00
	Total production expenses	\$56,137 31	\$81,062 11	\$137,199 42	\$98,591 26	\$45,419 97	\$144,011 23	\$109,165 00

TABLE No. XV—CONTINUED.

Operating expenses of Mt. Whitney Power and Electric Company for the years ending December 31, 1914 and 1915, and reasonable operating expenses herein determined.

Acct. No.	Account	Mt. Whitney Power and Electric Company, 1914	Tulare County Power Company, 1914	Total both companies, 1914	Mt. Whitney Power and Electric Company, 1915	Tulare County Power Company, 1915 (7 months)	Total both companies, 1915	Operating expenses used in rate determination
<i>Transmission Expenses.</i>								
E-24.	Superintendence	---	---	---	\$707 47	\$69 67	\$777 14	\$707 00
E-25.	Inspecting and patrolling	\$372 87	\$3 16	\$376 03	680 34	1 72	682 06	700 00
E-26.	Substation labor	7,890 24	807 67	8,697 91	2,030 07	465 91	2,495 98	2,200 00
E-27.	Substation supplies and expenses	875 07	1 30	876 37	521 56	---	521 56	500 00
E-28.	General labor and supplies	875 07	---	875 07	524 10	---	524 10	500 00
	Total operating transmission expenses	\$9,953 25	\$812 13	\$10,765 38	\$4,463 54	\$537 30	\$5,000 84	\$4,607 00
E-29.	Repairs to overhead transmission system	---	---	---	---	---	---	---
E-31.	Repairs to substation buildings and general structures	\$4,575 71	\$73 33	\$4,649 04	\$7,567 27	\$19 07	\$7,586 34	\$6,100 00
E-32.	Repairs to substation equipment	458 51	6 50	465 01	11 21	---	11 21	200 00
E-33.	Repairs to miscellaneous transmission equipment	3,967 23	---	3,967 23	1,838 46	---	1,838 46	1,500 00
	Total maintenance transmission expenses	\$9,001 45	\$79 83	\$9,081 28	\$9,426 01	---	\$9,445 08	\$7,810 00
	Total transmission expenses	\$18,954 70	\$891 96	\$19,846 66	\$13,889 55	\$556 37	\$14,445 92	\$12,417 00
<i>Distribution Expenses.</i>								
E-34.	Superintendence	---	---	---	---	---	---	---
E-35.	Substation labor	\$4,256 38	\$1 85	\$4,258 23	\$3,104 30	\$113 66	\$3,217 96	\$3,100 00
E-36.	Substation supplies and expenses	2,005 88	1,069 51	3,075 39	9,232 77	497 65	9,730 42	9,200 00
E-39.	Setting and removing transformers and meters	5,516 56	88 84	5,605 40	3,413 95	183 34	3,597 29	3,400 00
E-40.	Inspecting and patrolling	1,200 00	133 65	1,333 65	4,655 07	199 51	4,854 58	10,000 00
E-41.	Electric meter operations	3,750 35	134 58	3,884 93	2,197 52	7 18	2,204 70	1,500 00
			4 90	3,755 25	4,970 40	---	4,970 40	5,000 00

E-44. Commercial incandescent lamp installations and renewals	411 99	432 04	432 04	400 00
E-45. Inspection and repairs of consumers' installations	9,792 02	14,310 57	9,068 08	7,100 00
E-46. Municipal street arc labor	1,318 76	1,383 51	1,383 51	1,380 00
E-47. Municipal street arc supplies	1,318 77	1,318 77	1,135 08	1,150 00
E-48. General labor and supplies	2,005 89	2,007 14	2,200 63	2,200 00
Total operating distribution expenses	\$2,738 50	\$38,761 63	\$2,908 83	\$13,630 00
E-49. Repairs to substation buildings and general structures		\$38,961 78		
E-50. Repairs to substation equipment		\$112 06		\$100 00
E-51. Repairs to overhead distribution system	\$9,350 42	\$49 76		2,200 00
E-53. Repairs to line transmission and devices	232 37	11,387 90	\$728 27	17,572 00
E-54. Repairs to electric services	326 61	363 97	128 69	4,220 00
E-55. Repairs to electric meters	200 00	344 52	60 94	125 00
E-56. Repairs to municipal street lighting system	547 25	247 89	13 63	170 00
E-57. Repairs to commercial arc lamps		547 25		670 00
E-58. Repairs to installations on consumers' premises		10 76		
E-59. Repairs to miscellaneous distribution equipment				
Total main distribution expenses	\$10,656 65	\$12,952 05	\$16,135 95	\$25,057 00
Total distribution expenses	\$43,415 15	\$51,713 68	\$38,066 56	\$68,687 00
<i>Commercial Expenses.</i>				
E-60. New business expenses	\$12,057 17	\$4,726 74	\$71 95	\$5,800 00
E-61. Free installation expenses	184 70	337 69	333 86	450 00
E-62. Commercial department salaries and expenses	2,006 35	4,253 90	1,669 41	11,200 00
E-63. Commercial department indexing	9,379 30	10,353 39	8,363 66	3,000 00
E-64. Commercial department collections	12,705 60	13,793 58	18,323 31	7,500 00
E-65. Miscellaneous commercial expenses		92 10	575 91	3,150 00
Total commercial expenses	\$36,393 12	\$41,645 83	\$3,168 18	\$31,100 00

TABLE No. XV.—CONCLUDED.

Operating expenses of Mt. Whitney Power and Electric Company for the years ending December 31, 1914 and 1915, and reasonable operating expenses herein determined.

Acct. No.	Account	Mt. Whitney Power and Electric Company, 1914	Tulare County Power Company, 1914	Total both companies, 1914	Mt. Whitney Power and Electric Company, 1915	Tulare County Power Company, 1915 (7 months)	Total both companies, 1915	Operating expenses used in rate determination
<i>General and Miscellaneous Expenses.</i>								
E-66.	Salaries of general officers-----	\$19,655 00	\$5,906 98	\$25,561 98	\$15,814 51	\$3,644 18	\$19,458 69	\$17,000 00
E-67.	Salaries of general office clerks-----	18,287 00	2,172 82	20,459 82	11,034 92	1,678 70	12,713 62	13,550 00
E-68.	Miscellaneous general office supplies and expenses	13,491 27	4,826 02	18,317 29	18,913 70	2,006 59	20,920 29	19,500 00
E-69.	Law expenses—general-----	2,176 38	1,148 23	3,324 61	1,618 39	760 60	2,378 99	2,000 00
E-70.	Railroad Commission expenses-----	-----	-----	-----	13,891 12	172 95	14,064 07	1,000 00
E-71.	Injuries and damages-----	4,300 69	783 88	5,083 97	2,974 37	7 50	2,981 87	3,400 00
E-72.	Relief department and expenses-----	-----	-----	-----	309 73	-----	309 73	310 00
E-73.	Electric franchise requirements-----	241 82	-----	241 82	1,895 48	-----	1,895 48	2,250 00
E-74.	Other general expenses-----	27,545 23	-----	27,545 23	8,719 98	657 51	9,377 49	9,000 00
E-75.	Insurance-----	8,966 46	1,979 67	10,946 13	-----	-----	-----	-----
	Total general operating expenses-----	\$94,673 25	\$16,817 60	\$111,490 85	\$75,172 20	\$3,928 03	\$84,100 23	\$68,010 00
E-76.	Repairs to general structures-----	-----	-----	-----	-----	-----	-----	-----
E-77.	Repairs to general equipment—office equipment-----	\$234 24	\$34 21	\$268 45	\$99 77	-----	\$99 77	\$100 00
E-78.	Repairs to general equipment—shop equipment-----	-----	-----	-----	119 24	-----	119 24	120 00
E-79.	Repairs to general equipment—store equipment-----	-----	-----	-----	27 05	-----	27 05	27 00
E-80.	Repairs to general equipment—stable and garage-----	-----	2,573 18	2,573 18	89 00	\$37 89	38 46	-----
E-81.	Repairs to general equipment—miscellaneous-----	-----	22 29	22 29	411 78	2,058 02	2,147 02	90 00
E-82.	Repairs to telephone lines-----	641 20	36 92	678 12	499 15	14 47	513 62	400 00
E-83.	Repairs to roads, trestles and bridges-----	-----	-----	-----	-----	10 50	10 50	600 00
E-86.	Undistributed adjustments—balances-----	-----	-----	-----	239 02	-----	239 02	-----
E-87.	Extraordinary repairs-----	-----	-----	-----	-----	-----	-----	-----
E-88.	Repairs charged to reserve-----Or-----	-----	-----	-----	-----	-----	-----	-----
	Total general maintenance expenses-----	\$875 44	\$2,666 60	\$3,542 04	\$1,007 54	\$2,120 88	\$3,128 42	\$1,337 00
	Total general and miscellaneous expenses-----	\$95,548 69	\$19,484 20	\$115,032 89	\$76,179 74	\$11,048 91	\$87,228 65	\$69,347 00

E-91. Taxes -----		\$24,028 37	\$5,318 67	\$29,347 04	\$32,474 26	\$3,847 55	\$36,321 81	\$43,850 00
<i>Taxes.</i>								
<i>General Amortization of Capital.</i>								
Total amortization of capital -----		\$48,242 09	\$7,200 00	\$55,442 09	\$67,065 38	\$4,200 00	\$71,255 38	\$97,339 00
<i>Recapitulation of Expenses.</i>								
Production expenses -----		\$56,137 31	\$81,062 11	\$137,199 42	\$98,591 26	\$45,419 97	\$144,011 23	\$109,165 00
Transmission expenses -----		18,954 70	891 96	19,846 66	13,889 55	556 37	14,445 92	12,417 00
Distribution expenses -----		43,415 15	8,298 53	51,713 68	53,652 07	4,414 49	58,066 56	68,687 00
Commercial expenses -----		36,393 12	5,232 71	41,645 83	41,233 69	3,168 18	44,811 87	31,100 00
General and miscellaneous expenses -----		95,548 69	19,484 20	115,032 89	76,179 74	11,048 91	87,228 65	69,317 00
Taxes -----		24,028 37	5,318 67	29,347 04	32,474 26	3,847 55	36,321 81	43,850 00
General amortization of capital -----		48,242 09	7,200 00	55,442 09	67,055 38	4,200 00	71,255 38	97,339 00
Total operating expenses -----		\$322,719 43	\$127,508 18	\$450,227 61	\$383,075 95	\$72,655 47	\$455,731 42	\$431,905 00
E-103. Uncollectible bills -----		7,575 54	4,702 57	12,278 11	5,602 75	1,200 00	6,802 75	12,424 00
Grand total expenses -----		\$330,294 97	\$132,210 75	\$462,505 72	\$388,678 70	\$73,855 47	\$462,534 17	\$444,329 00

The Commission, in making its estimate of reasonable maintenance and operating expenses, has increased the expenses heretofore obtaining in order to provide for the maintenance and operation of transformers, and also to provide the necessary maintenance expenses in connection with the reconstruction of transmission and distribution lines under the provisions of chapter 499 of the Laws of 1911 and chapter 600 of the Laws of 1915.

A reduction in operating expenses will result from the elimination of the maximum demand system in connection with agricultural power rates, and also from the elimination of the purchase of electric energy from the San Joaquin Light and Power Corporation.

4. *Depreciation annuity.*

A reasonable depreciation annuity appears in Table No. XIV, hereinabove appearing. The depreciation annuity has been determined on the 6 per cent sinking fund basis.

5. *Cost of service.*

The following table shows the cost of service of the Mt. Whitney Company, as deduced from the evidence in these proceedings:

TABLE No. XVI.

Cost of service, Mt. Whitney Power and Electric Company.

Capital -----	\$4,886,197 00
Interest at 7 per cent -----	\$342,034 00
Depreciation annuity -----	97,339 00
Operating expenses -----	290,716 00
Subtotal -----	\$730,089 00
Uncollectible bills -----	11,645 00
Subtotal -----	\$741,734 00
Taxes 5½ per cent -----	41,099 00
Total cost -----	\$782,833 00
Profit (based on 8 per cent return) -----	\$48,862 00
Adjustment for uncollectible bills -----	779 00
Subtotal -----	\$49,641 00
Adjustment for taxes -----	2,751 00
Profit adjusted for uncollectible bills and taxes -----	\$52,392 00
Total cost, plus profit -----	\$835,225 00

6. *Rates established.*

The Mt. Whitney Company has established rates for power service, general lighting, miscellaneous lighting and municipal lighting. Under the head of power rates, the company has four standard forms of contracts, as well as a monthly non-contract rate and a few miscellaneous

power rates. The Mt. Whitney Company's four standard agricultural power contracts, known respectively as C-1-1912, C-2-1912, C-3-1912, and C-4-1912, have already hereinbefore been referred to.

No complaint was made in these proceedings of any of the rates of the Mt. Whitney Company except the agricultural power rates. A large number of farmers under the system of the Mt. Whitney Company made insistent complaint against the company's agricultural power rates, particularly the standard \$50.00 per horsepower of maximum demand annual rate. Considerable testimony was offered to show that unless a reduction in the agricultural power rates is made, a considerable portion of the agricultural power business of the Mt. Whitney Company may be lost to the competition of gasoline engines. This general situation has been discussed in some detail in the decision this day being rendered in the San Joaquin Light and Power Corporation cases, to which decision reference is hereby made.

I find that it will be very much to the interest of the farmers under this system to have established a seasonal rate, so that those farmers who need power only during say seven to nine months may secure a more reasonable rate than that which they necessarily must pay if the Mt. Whitney Company must stand ready to serve them during each day of the year, as is now done under the standard \$50.00 per horsepower maximum demand contract. I am of the opinion that the farmers will find that most of them can use such seasonal rates, with substantial advantage to them. Fair and reasonable seasonal rates are being established herein.

A careful consideration of the evidence herein convinces me that the general lighting rate of the Mt. Whitney Company is in excess of a reasonable rate. The Mt. Whitney Company has been charging a flat rate of 10 cents per kilowatt hour with certain discounts on monthly bills in excess of \$20.00, with a minimum charge of \$1.00 per month for all residence lighting service. The minimum should be reduced from \$1.00 to 75 cents per meter per month.

I find as a fact that the rates which are set forth in the order herein are just and reasonable rates to be charged by the Mt. Whitney Company for the respective classes of service designated.

IX.

Rules and Regulations.

Inasmuch as the rates and principles herein established will modify the conditions under which service is rendered, it will be necessary that the Mt. Whitney Power and Electric Company revise all of its present rules and regulations, particularly those pertaining to contracts, waiver of damages, transformers, etc.

Mt. Whitney Power and Electric Corporation accordingly shall submit to the Commission revised rules and regulations, to conform with the findings herein, and the rules set forth by this Commission in its Decision No. 2879 in Case No. 863.

The following rules and regulations which have been considered in connection with the establishment of the rates herein prescribed are found to be just and reasonable. The same shall be incorporated by Mt. Whitney Power and Electric Company in its filing regarding the terms and conditions of service above referred to and submitted to this Commission, as herein provided:

Rules and Regulations.

1. *Application for Service.* The company will require each prospective consumer to make application in writing for the service desired, such application setting forth the location of the premises to be served, the purpose for which the service is to be used, a description of the electrical equipment installed, the name and address of the person responsible for the payment of the bills and whether applicant is the owner, agent or tenant of the premises upon which the service is to be used.
2. *Contracts.* Contracts for a period of three years will be required in the first instance for agricultural service under conditions which require a material investment by the company in service facilities.
3. *Rates.* The rates to be charged by and paid to the company for electric energy and service shall be the rates legally in effect and on file with the Railroad Commission. Complete schedules of all rates legally in effect will be kept at all times in each of the company's local offices where they will be available for public inspection. Where there are two or more rates or schedules applicable to any class of service the consumer, at the time he makes application to the company for service, must designate which rate or schedule he desires, and the rate or schedule so designated shall remain in effect until changed by thirty days' written notice by the consumer specifying which new rate or schedule is desired. The rates and minimum charges set forth in the effective rate schedules are based upon the load connected to the company's supply system through one meter. Where sub-meters or secondary meters are desired by the consumer, such meters will be charged for separately on the monthly rental basis.
4. *Limitation of Demand.* Double throw switches or other approved demand limiting devices will be permitted to limit the demand which can be created at any one time on the company's supply system through the operation of the consumer's electrical equipment.
5. *Meters.* All meters will be furnished and installed by the company at its own expense without any additional charge from the rates set forth in its effective rate schedules, except in cases where special metering facilities are desired by the consumer. All meters will be tested at the time of their installation and no meter will be placed in service or allowed to remain in service which has an error of registration in excess of 2 per cent under the conditions of normal operation. Upon giving the company at least five days' notice, the consumer shall have the right at any time to require the company to test his service meter in his presence, or, if he so desires, in the presence of an expert or other representative appointed by him; provided, however, that if special tests are required by the consumer more often than once in six months, a reasonable charge shall be made for such additional tests.

I submit the following form of order:

ORDER.

Public hearings having been held in the above entitled proceedings, and said proceedings having been submitted and being now ready for decision, the Railroad Commission hereby makes the following findings of fact:

(1) The Railroad Commission finds that the rates, rules, regulations, contracts, and practices of the Mt. Whitney Power and Electric Company are unjust and unreasonable in so far as they differ from the rates, rules, regulations, contracts, and practices herein established.

(2) The Railroad Commission hereby finds that the rates, rules, regulations, contracts, and practices herein established are just and reasonable rates, rules, regulations, contracts, and practices.

Basing its order on the foregoing findings of fact, and on each statement of fact contained in the opinion which precedes this order,

It is hereby ordered as follows:

1. Mt. Whitney Power and Electric Company is hereby ordered to establish and file with the Railroad Commission on or before April 20, 1916, the following rates for the respective classes of service specified, which rates are found to be just and reasonable rates:

SCHEDULE No. 1.

General Domestic Lighting Rate, metered service.

Applicable to domestic and small commercial lighting, heating and power installations of less than five kilowatt capacity.

First 20 kilowatt hours per month----- 8 cents per kilowatt hour
Over 20 kilowatt hours per month----- 4 cents per kilowatt hour

Minimum monthly charge, 75 cents per meter.

SCHEDULE No. 2.

General Commercial Lighting Rate, metered service.

Applicable to all commercial, industrial, sign outline and other lighting installations and to small power and appliances used in connection with lighting service.

\$2.25 per month per kilowatt of measured maximum demand, to which charge shall be added an energy charge of one (1) cent per metered kilowatt hour for all electric energy consumed.

Minimum monthly bill, \$2.50.

Watt demand indicators and watt hour meters will in all cases be installed and maintained by the company at its own expense under this rate.

SCHEDULE No. 3.*Public Outdoor Lighting Service.*

This schedule of rates applies to all street, highway and other public outdoor lighting coming under the following classes of service, and includes installation and all maintenance and operation and lamp renewals necessary for such service.

1. *Luminous arcs: Rate—*
\$33.00 per lamp per year plus 45 cents per 100 lamp hours; payable monthly.
2. *Inclosed carbon arcs: Rate—*
\$31.80 per lamp per year plus 45 cents per 100 lamp hours.
3. *Series or multiple 100 watt tungsten incandescent lamps—*
\$16.20 per lamp per year plus 15 cents per 100 lamp hours; payable monthly.
4. *Series or multiple 60 watt tungsten incandescent lamps—*
\$13.40 per lamp per year plus 10 cents per lamp hour; payable monthly.

SCHEDULE No. 4.*Agricultural Service, contract flat rates.*

Applicable to all agricultural or rural power and other service, limited only by the demand upon the company's system. Service will normally be supplied at 110 or 220 volts.

One month's service.....	\$7 00 per horsepower
Two months' service.....	12 15 per horsepower
Three months' service.....	16 45 per horsepower
Four months' service.....	20 25 per horsepower
Five months' service.....	23 65 per horsepower
Six months' service.....	26 80 per horsepower
Seven months' service.....	29 75 per horsepower
Eight months' service.....	32 50 per horsepower
Nine months' service.....	35 10 per horsepower
Ten months' service.....	37 60 per horsepower
Eleven months' service.....	40 00 per horsepower
Twelve months' service.....	42 30 per horsepower

The above flat rates are based upon the connected load in motors or other utilization equipment which can be connected at any one time to the company's supply system. Under normal conditions meters will not be installed by the company on strictly flat rate business, but at the consumer's request demand indicating and watt hour meters will be supplied at a charge of \$7.50 per year or fraction thereof, and the flat rate charges per horsepower of connected load will be readjusted on the basis of 94 per cent demand factor.

The minimum bill under these rates will be the flat rate for one horsepower.

SCHEDULE No. 5.*Agricultural Service, noncontract flat rates.*

Applicable to all agricultural or rural power and other service limited only by the demand upon the company's system. Service will normally be supplied at 110 or 220 volts.

First month's service.....	\$7 00 per horsepower
Second month's service.....	5 15 per horsepower
Third month's service.....	4 30 per horsepower
Fourth month's service.....	3 80 per horsepower
Fifth month's service.....	3 40 per horsepower
Sixth month's service.....	3 15 per horsepower
Seventh month's service.....	2 95 per horsepower
Eighth month's service.....	2 75 per horsepower
Ninth month's service.....	2 60 per horsepower
Tenth month's service.....	2 50 per horsepower
Eleventh month's service.....	2 40 per horsepower
Twelfth month's service.....	2 30 per horsepower

The consumer taking service under these rates will be required to pay for the cost of the initial service connection and also the cost of any subsequent disconnections or reconnections made at his request.

The above flat rates are based upon the connected load in motors or other utilization equipment which can be connected at any one time to the company's supply system. Under normal conditions meters will not be installed by the company on strictly flat rate business, but at the consumer's request demand indicating and watt hour meters will be supplied at a charge of \$7.50 per year or fraction thereof, and the flat rate charges per horsepower of connected load will be readjusted on the basis of 94 per cent demand factor.

The minimum bill under these rates will be the flat rate for one horsepower.

SCHEDULE No. 6.

Agricultural Service, meter rates.

Applicable to all agricultural or rural power and other service limited only by the demand upon the company's system. Service will normally be supplied at 110 or 220 volts.

CONTRACT BASIS.

Demand charge for one month's service.....	\$4 50 per horsepower
Demand charge for two months' service.....	7 50 per horsepower
Demand charge for three months' service.....	9 80 per horsepower
Demand charge for four months' service.....	11 75 per horsepower
Demand charge for five months' service.....	13 45 per horsepower
Demand charge for six months' service.....	15 00 per horsepower
Demand charge for seven months' service.....	16 40 per horsepower
Demand charge for eight months' service.....	17 70 per horsepower
Demand charge for nine months' service.....	18 90 per horsepower
Demand charge for ten months' service.....	20 00 per horsepower
Demand charge for eleven months' service.....	21 05 per horsepower
Demand charge for twelve months' service.....	22 05 per horsepower

To the demand charge, which is payable in equal monthly installments, shall be added the following energy charges: energy charge, \$.005 per kilowatt hour.

NONCONTRACT BASIS.

Demand charge for first month's service.....	\$4 50 per horsepower
Demand charge for second month's service.....	3 00 per horsepower
Demand charge for third month's service.....	2 30 per horsepower
Demand charge for fourth month's service.....	1 95 per horsepower
Demand charge for fifth month's service.....	1 70 per horsepower
Demand charge for sixth month's service.....	1 55 per horsepower
Demand charge for seventh month's service.....	1 40 per horsepower
Demand charge for eighth month's service.....	1 30 per horsepower
Demand charge for ninth month's service.....	1 20 per horsepower
Demand charge for tenth month's service.....	1 10 per horsepower
Demand charge for eleventh month's service.....	1 05 per horsepower
Demand charge for twelfth month's service.....	1 00 per horsepower

To the demand charge shall be added the following energy charge: energy charge, \$.005 per kilowatt hour.

The consumer taking service under noncontract rates will be required to pay for the cost of the initial service connection, and also the cost of any subsequent disconnections or reconnections made at his request.

The demand charges under this schedule are based on the connected load in motors or other utilization equipment which can be connected at any one time to the company's supply system, and the meters regularly supplied are of the recording watt hour type. At the consumer's request, however, the company will furnish and install demand indicating instruments at a rate of \$3.00 per year or fraction thereof, and base the demand charge upon the measured monthly maximum demand, in which case the demand charges will be readjusted on the basis of 94 per cent demand factor.

The minimum bill will be the demand charge for one horsepower.

SCHEDULE No. 7.

General Power Rate, metered service.

Applicable to all industrial, commercial and other power installations of not more than twenty (20) horsepower installed capacity receiving energy at 110 or 220 volts at the consumer's option. Single phase or three-phase service at option of company.

4 cents per kilowatt hour for first 200 kilowatt hours consumed during any month.

2 cents per kilowatt hour for all energy used during any month in excess of 200 kilowatt hours.

Minimum monthly charge, \$1.00 per horsepower.

Minimum monthly bill, \$1.00.

SCHEDULE No. 8.

Industrial Power Rates, metered service.

Applicable to all classes of power installations not otherwise specifically provided for in separate schedules.

Installations of less than 20 horsepower.

\$1.50 per month per horsepower connected to which charge shall be added an energy charge of one-half ($\frac{1}{2}$) cent per kilowatt hour for all electric energy supplied.

Minimum monthly bill, \$5.00.

Installations in excess of 20 horsepower.

\$2.50 per month per kilowatt of measured maximum demand, to which charge shall be added an energy charge of four-tenths of one cent (\$.004) per kilowatt hour for all energy supplied.

Minimum monthly bill, \$20.00.

On small installations where the demand charge is based on the connected load ordinary recording watt hour meters are regularly supplied by the company. At the consumer's request, however, demand indicating instruments will be supplied at an additional charge of 25 cents per month, in which case the rate will be based on the measured monthly maximum demand and the demand charge will be readjusted on the basis of 75 per cent demand factor.

SCHEDULE No. 9.

Substation Service Rate, metered service.

Applicable to large consumers receiving energy directly from the company's substations.

\$2.70 per month per kilowatt of measured maximum demand to which charge should be added an energy charge of one quarter ($\frac{1}{4}$) cent per kilowatt hour for all electric energy supplied.

Monthly minimum charge, \$50.00.

Under this rate, watt demand indicators, graphic recording meters, or other demand indicating or recording instruments and watt hour meters will in all cases be installed and maintained by the company at the point of delivery.

SCHEDULE No. 10.

Transmission Service Rate, metered service.

Applicable to large consumers receiving energy directly from the company's transmission lines at the transmission line voltage.

\$2.50 per month per kilowatt of measured maximum demand, to which charge shall be added an energy charge of two-tenths (2-10) cent per kilowatt hour for all electric energy supplied.

Monthly minimum charge, \$1.00.

Under this rate watt demand indicators, graphic recording meters, or other demand indicating or recording instruments, and watt hour meters will in all cases be installed and maintained by the company at the point of delivery.

2. Mt. Whitney Power and Electric Company is hereby directed to prepare and file with the Railroad Commission on or before April 20, 1916, revised forms of agricultural power contracts, complying with the directions contained in the opinion which precedes this order.

3. Mt. Whitney Power and Electric Company is hereby ordered to establish and file with the Railroad Commission on or before April 20, 1916, rules and regulations in accordance with the directions contained in the opinion which precedes this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of April, 1916.

DECISION No. 3243.

WM. INGRAM ET AL.

vs.

NORTHWESTERN PACIFIC RAILROAD COMPANY.

Case No. 925.

Decided April 6, 1916.

Complainants petition the Commission to direct that defendant construct and maintain a switch and flag station at a point approximately two and one-half miles north of Dos Rios, Mendocino County, and it appearing that the construction of a road to Dos Rios would better serve complainants' needs at the present time, complaint dismissed without prejudice.

Wm. Ingram, for Complainants.

Stanley Moore and *C. J. Goodell*, for Defendant.

REPORT OF THE COMMISSION.

The issues raised by the pleadings are whether the fourteen complainants and the public need a switch and flag station at a point known as Charlie Lee's flat on defendant's line about two and one-half miles north of Dos Rios, Mendocino County.

Defendant's main line from Willits to Eureka follows the narrow canyon of the Eel River through very mountainous country. Complainants are mostly homeseekers who have entered upon government land on the west slope of the canyon between Berger Creek and Stoney Creek, both of which flow into Eel River from the west a short distance north of Dos Rios. They are establishing homes and ranches. There are several small cultivated fields, vineyards and orchards. One complainant also has a small summer resort. The areas capable of cultivation on their various claims vary in size from 6 acres to 40 acres.

The areas now in cultivation vary from 1 acre to 15 acres. All kinds of grain, vegetables and fruit can evidently be grown, but in rather limited areas. The country is also adapted for grazing and stock raising. Most of complainants expect to raise stock and feed the grain they raise.

Two of the complainants have considerable tan oak upon their property and most of them have timber suitable for firewood.

Only two of the complainants own patented or deeded lands. Some of their claims have been previously filed upon and in one or two instances contests have been filed, or are anticipated.

At Dos Rios there is an agency station, ample cattle corrals and loading chutes, post office, school, and store. The county road from Laytonville to Covelo and Round Valley passes through Dos Rios and across the county bridge over the Eel River. Most of complainants and their neighbors have business bringing them to Dos Rios.

During the construction of its railroad, defendant built a wagon road along or near its right of way. From Dos Rios 4.8 miles northerly to Woodman, a flag station, the road remains in fair condition, except for about three-fourths of a mile north of Berger Creek, where it is occupied by the railroad tracks. From Dos Rios to the mouth of Berger Creek, about 1½ miles, this road is used in connection with horse trails.

The homes and ranches of complainants and others in their vicinity can be reached only by the old wagon road and horse trails from Dos Rios via the mouth of Berger Creek. Building materials, water pipe and supplies are taken from Dos Rios up the trails upon the backs of the settlers, or upon pack animals, or dragged by horses over the trails, which lead to an elevation of about 2,275 feet above the river. The principal trail has a fairly good grade. During the winter season especially, the storms and floods make the fording of Berger Creek dangerous at times. Vehicles and modern farm machinery are not used, principally because of lack of roads.

Complainants propose to build a wagon road to the railroad at the said flat by contributing their labor, provided they are assured suitable facilities for using the railroad at that point. No surveys nor careful estimates of the cost of such a road have been made.

We think it probable that a careful investigation will show that the present principal horse trail can be developed into a wagon road at a very much smaller cost than building the proposed new road; and that access to and from Dos Rios over such a road would be more advantageous, easier and perhaps quicker, though farther, than to and from the railroad at the point in question over the new road

proposed. The proper serving of the complainants and the people in their vicinity, and the development of business for defendant, depends principally upon the wise location of a wagon road. We are not satisfied that sufficient study of this question has been given by either complainants or defendant. We hope they will co-operate in a thorough investigation of both proposed routes to the railroad. Defendant roughly estimates that a suitable wagon bridge across Berger Creek west of the railroad could be constructed for about \$200.00, including the purchase of sawed timbers and payment for labor. A much larger bridge of considerably heavier type of construction was recently built by defendant for \$600.00. Suitable rough timber is standing in the vicinity of the bridge, and defendant expressed willingness to furnish rods, bolts and hardware and supervision of its bridge builders if complainants and their neighbors would furnish labor and timber for constructing a rustic bridge.

Complainants are enduring the hardships of pioneers developing new country. They deserve our encouragement and aid. Defendant through the co-operation it can give is in a position to develop future traffic for its line, and also give needed aid to the pioneers.

If complainants, after an adequate study of the situation, conclude to make the necessary sacrifice in labor or money and build the road to the flat rather than to Dos Rios, a situation will be presented which will probably justify the establishment of a flag station, and later, when sufficient traffic has been developed, justify the installation of a switch. Neither is now justified. The complaint will therefore be dismissed without prejudice.

ORDER.

William Ingram et al. having filed complaint against Northwestern Pacific Railroad Company requesting that defendant be compelled to establish and maintain a switch or flag station at a point about two and one-half miles north of its station at Dos Rios, Mendocino County, and defendant having answered said complaint and public hearings having been held thereon and the matter being now ready for decision,

It is hereby ordered that said complaint be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this 6th day of April, 1916.

DECISION No. 3244.

IN THE MATTER OF THE APPLICATION OF NEVADA-CALIFORNIA-OREGON RAILWAY FOR AN ORDER RATIFYING AND APPROVING THE ISSUE OF CERTAIN BONDS OF SAID CORPORATION HERETOFORE INADVERTENTLY ISSUED WITHOUT THE AUTHORITY OF THIS COMMISSION.

Application No. 2055.

Decided April 7, 1916.

Applicant applied to issue certain bonds, among which were bonds of the face value of \$117,000.00, of which amount applicant issued \$15,000.00 without waiting for the necessary permission of this Commission, authorization was accordingly deferred pending an explanation of such action, and it now having been shown that such bonds were issued through inadvertence, applicant granted permission to issue \$117,000.00 face value of its 5 per cent first mortgage bonds to be sold at not less than 90, proceeds to be used for betterments and improvements to its line of railway.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas applicant has requested authority to issue \$519,000.00 face value of first mortgage 5 per cent 20-year bonds due and payable May 1, 1919, to reimburse its treasury for a portion of capital expenditures made during the period from January 1, 1912, to December 31, 1915, said expenditures being reported at \$890,250.34; and

Whereas this Commission by Decision No. 3228, dated April 4, 1916, authorized applicant, subject to certain conditions specified in the order of said Decision No. 3228, dated April 4, 1916, to issue \$402,000.00 face value of said bonds; and

Whereas said Decision No. 3228, dated April 4, 1916, provides that "No part of the remaining \$117,000.00 face amount of bonds shall be issued until this Commission has issued a supplemental order finding that applicant has furnished this Commission with satisfactory evidence showing that \$15,000.00 face amount of bonds mentioned in the foregoing opinion have been issued through inadvertence and without intention of violating the Public Utilities Act"; and

Whereas applicant has furnished this Commission with satisfactory evidence showing that the aforementioned \$15,000.00 face value of bonds were issued through inadvertence and without any intention of violating the Public Utilities Act, and good cause appearing,

It is hereby ordered that Nevada-California-Oregon Railway be granted authority and it is hereby granted authority to issue \$117,000.00

face value of first mortgage 5 per cent 20-year bonds, due and payable May 1, 1919.

The authority to issue said bonds is given upon the following conditions, and not otherwise:

1. Bonds in the sum of \$15,000.00 may be issued in lieu of a like amount of bonds heretofore issued without the authority of this Commission, provided said bonds are issued at the same price as the bonds originally issued without an order from this Commission; the \$15,000.00 face value of bonds heretofore issued to be returned to the treasury of the company and report of such return made to the Commission.

2. The remaining \$102,000.00 face value of bonds may be issued by applicant at not less than 90 per cent of their face value, plus accrued interest.

3. Nevada-California-Oregon Railway shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The proceeds obtained from the sale of the bonds, the issue of which is hereby authorized, shall be used by applicant to rehabilitate its line of railway, or for additions and betterments thereto; said expenditures to be reported to this Commission.

5. The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act, as amended.

6. The authority herein granted shall apply only to such bonds as may be issued on or before December 31, 1916.

It is hereby further ordered that Decision No. 3228, dated April 4, 1916, shall remain in full force and effect except as it may be modified by this first supplemental order.

Dated at San Francisco, California, this 7th day of April, 1916.

DECISION No. 3245.

SAN DIEGO CONSOLIDATED BREWING COMPANY,
MISSION BREWING COMPANY*vs.*THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, THE
SUNSET RAILWAY COMPANY, AND SOUTHERN PACIFIC COMPANY.

Case No. 799.

Decided April 7, 1916.

REPORT OF THE COMMISSION.**ORDER OF DISMISSAL.**

Complainants having, on April 7, 1916, made written request to this Commission that the complaint in this proceeding be dismissed,

It is hereby ordered that the complaint in this proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 7th day of April, 1916.

DECISION No. 3246.

H STREET PROPERTY OWNERS ASSOCIATION OF FRESNO

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 932.

Decided April 7, 1916.

Complainants initiate the above entitled action with a view to compelling a separation of grades at the point of entrance of defendant into the city of Fresno, and it appearing that the city authorities and a considerable number of property owners are not in accord with the plans of complainant, arrangement made so that the subject matter of this complaint will be taken up in an action to be brought by the city authorities. Complaint dismissed.

E. M. Prescott, for Complainant.

Geo. D. Squires, for Defendant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

In this case the H Street Property Owners Association of Fresno (not incorporated) complains that the grade crossings of the Southern Pacific Company's railroad at the southern entrance of the state highway into the city of Fresno are a menace to public safety; that the people of the city of Fresno have in the past made complaint to the Southern Pacific and also to the city officials of Fresno, but that the

menace still exists, and that no action for the elimination of the dangerous grade crossings has been taken. The complainant asks for an investigation and hearing by the Commission and states that it is ready to produce evidence which will show that this menace to public safety should be eliminated by the construction of a subway under the tracks of defendant's railroad at Monterey street connecting H street with G street in the city of Fresno. In its answer to the complaint defendant denies all allegations and asks for a dismissal.

A hearing was held in Fresno on March 31, 1916. The city, through its authorities, is not a party to this proceeding; and it developed from the testimony of Mayor Snow that the city of Fresno is not prepared to pay a portion of the cost of the construction of a subway at Monterey street, if the Commission should make such an order. It also developed that there would be strong opposition from property owners and citizens of Fresno if the construction of a subway at Monterey street would result in the closing of the present grade crossing of Cherry avenue; and it became clear that a considerable number of people would favor an undercrossing at Cherry avenue rather than a diversion of the state highway travel to Monterey street and a separation of grades at the point indicated in this complaint.

I am of the opinion that this question of the establishment of a safe main highway entrance into the city of Fresno from the south is of such importance to that city as to merit most careful investigation, and should not be solved without the fullest co-operation of the city authorities, the carriers, and this Commission.

A thorough study of the problem in all its aspects, it is evident, has not been made by petitioner, and the city is not officially interested in this case. These facts were recognized at the hearing and an agreement was reached by which the city undertook to bring the matter before the Commission in a formal way within a reasonable period of time, failing which the Commission would institute an investigation on its own motion. With this understanding, complainant agreed that the present case should be dismissed, and I recommend to the Commission that the complaint be dismissed without prejudice.

I recommend the following order:

ORDER.

H Street Property Owners Association of Fresno, having made its complaint to the Commission that the grade crossings of the Southern Pacific Company's railroad at the southern entrance of the state highway into the city of Fresno are a menace to public safety, and that this menace should be eliminated by the construction of a subway at Monterey street connecting H street with G street in Fresno; and a public hearing having been held, and an agreement having been reached

by which the city authorities of Fresno will undertake to make formal application to the Commission in this matter, failing which the Commission will institute proceedings on its own motion, and it further appearing that the present complaint should be dismissed,

It is hereby ordered that the complaint be and the same is hereby dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 7th day of April, 1916.

DECISION No. 3247.

IN THE MATTER OF THE APPLICATION OF CHETCO SOUTHERN TELEPHONE COMPANY FOR PERMISSION TO SELL A PORTION OF ITS TELEPHONE SYSTEM IN CRESCENT CITY.

Application No. 1938.

IN THE MATTER OF THE APPLICATION OF DEL NORTE PEOPLES TELEPHONE COMPANY TO ISSUE PROMISSORY NOTES.

Application No. 2135.

Decided April 10, 1916.

Chetco Southern Telephone Company, operating a telephone system in Crescent City, applies for permission to transfer such system to the Del Norte Peoples Telephone Company, and the latter named company applies for permission to issue \$1,500.00 of promissory notes in partial payment therefor. Application granted.

REPORT OF THE COMMISSION.

Chetco Southern Telephone Company having applied to this Commission for authority to sell to Del Norte Peoples Telephone Company the following described property:

An undivided one-half interest in and to the local system within the corporate limits of the city of Crescent City, as the same stood and inventoried July 1, 1911, as follows, to wit:

Two hundred fifty $\frac{1}{2}$ -amp. fuses, terminal, 4 boxes FHW wood screws 13-14, 13 mouthpieces, 35 arresters, 5 baby knife switches SPST, 20 comb. jacks and drops extra, 11 glass circuit breakers, 1 box FHW wood screws $1\frac{1}{2}$ -8, 200 ins. staples, 1 socket wrench, 1 16 x $\frac{3}{4}$ bitt, 1 $\frac{1}{2}$ -in. bitt, 1 soldering iron, 3 $\frac{3}{8}$ -bits, 12 $\frac{1}{2}$ x 14 in. bolts gal., 16 $\frac{1}{2}$ x 4 in. bolts, 117 pole steps gal., 55 pounds EBB No. 12 gal. wire, 1 gasoline torch, 7 $\frac{1}{2}$ pounds annu. wire, 2 zincs for gravity batteries, 1 pint shellac, 8 6-in. bushings, 18 cleats 2 wire, 28 No. 4 knobs, 17 split knobs, 425 pins $1\frac{1}{2}$ -in., 1 box pot head fuses, 77 type D, 16 type A, 88 type C, fuses, 1 wall type receiver, 200 ft.

No. 14 R.C. wire, 2,550 ft. No. 18 duplex wire, 64 wall sets, 10 portable sets, 6 poles, arms and insulators, E street, 27 poles, arms and insulators, Second street, 4 poles, arms and insulators, F street, 16 poles, arms and insulators, H street, 6 poles, arms and insulators, Sixth street, 10 poles, arms and insulators, J street, 15 poles, arms and insulators, L street, 27 circuits, No. 12 EBB gal. wire leading from office to distributing points of city, 1 50-line Kellogg magneto switchboard and terminal racks, office equipment, etc., 1 wall set, less receiver;

Also, all of the lines, poles, apparatus, appliances and equipment of all of the lines of said Chetco Southern Telephone Company leading into the main office at Crescent City, California, which said lines are known as lines Nos. 16, 22 and 23, and what is known as the Lake Earl line, save and except the main line running from Smith River to Crescent City along the county road between said two points, and the poles on said last mentioned line leading from Smith River to what is known as William McKay's.

Said property to be sold for the sum of two thousand dollars (\$2,000.00), five hundred dollars (\$500.00) of which is to be paid in cash, and the remaining fifteen hundred dollars (\$1,500.00) in notes of Del Norte Peoples Telephone Company; seven (7) of said notes to be of the face value of two hundred dollars (\$200.00), and the eighth note to be of the face value of one hundred dollars (\$100.00); the first note to fall due six (6) months from date, and the remaining notes to fall due at successive periods of six (6) months thereafter;

And Del Norte Peoples Telephone Company having asked for authority of this Commission to issue such promissory notes in so far as the consent of the Commission is necessary thereto, and as security for all of the notes above mentioned to execute a mortgage of the property which Chetco Southern Telephone Company proposes to transfer to Del Norte Peoples Telephone Company; said mortgage to be in the form of the mortgage attached to Application No. 1938 as "Exhibit D"; and the Commission being duly advised in the premises, and a public hearing having been held, and it appearing that the notes which Del Norte Peoples Telephone Company desires to issue are not to be issued for purposes properly chargeable to operating expenses or income,

It is hereby ordered that these two applications be and the same are hereby granted, and Chetco Southern Telephone Company is hereby authorized to convey to Del Norte Peoples Telephone Company the property described above, and Del Norte Peoples Telephone Company is hereby authorized to execute a mortgage of said property in the form described above, and also, to issue its promissory notes on the terms and for the periods above described, upon the following conditions and not otherwise, to wit:

1. The consideration given for the property herein authorized to be transferred shall not be taken before this Commission or any other public body as representing the value of said property for rate fixing or other purposes.

2. The notes which the Commission herein authorizes Del Norte Peoples Telephone Company to issue shall be issued at a rate of interest not to exceed 6 per cent (6%) per annum, and the authority to issue said notes shall apply to only such notes as are issued on or before June 30, 1916.

3. Within thirty (30) days after the property herein authorized to be transferred has been conveyed to Del Norte Peoples Telephone Company, and the latter company has executed a mortgage upon said property and issued notes in accordance with the Commission's order, applicant shall report these facts to the Commission.

Dated at San Francisco, California, this 10th day of April, 1916.

Decision No. 3248, grade crossing; not printed. See end of volume.

DECISION No. 3249.

IN THE MATTER OF THE APPLICATION OF FRANK G. DRUM AND WARREN OLNEY, JR., RECEIVERS OF THE PROPERTY OF WESTERN PACIFIC RAILWAY COMPANY, FOR AN ORDER AUTHORIZING THE ISSUE OF LEASE WARRANTS IN THE AGGREGATE AMOUNT OF FOUR HUNDRED THOUSAND DOLLARS, AND OF INTEREST NOTES IN THE AGGREGATE AMOUNT OF TWENTY-FIVE THOUSAND DOLLARS, IN PART PAYMENT OF THE PURCHASE PRICE OF ONE THOUSAND BOX CARS.

Application No. 2186.

Decided April 13, 1916.

Applicants having entered into an agreement whereby they acquire 1,000 box cars at a total cost of \$972,170.00, of which amount \$372,170.00 is to be paid in cash, the balance in notes falling due at successive six-month periods, apply for permission to issue such notes as will run for a period in excess of one year. Such notes amount to \$400,000.00 face value of lease warrants and interest notes of the face value of \$25,000.00. Application granted.

John S. Partridge, for Applicants.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This is an application of Frank G. Drum and Warren Olney, Jr., receivers of the property of Western Pacific Railway Company, for authority to issue notes for the purpose of acquiring railway equipment.

With the approval of Judge Van Fleet of the United States District Court, having jurisdiction over the receivership of the Western Pacific

Railway Company, these receivers have entered into a contract with The Pullman Company for the purchase of 1,000 steel frame box cars. Under the terms of this contract the receivers obligate themselves to pay \$972.17 per car, or a total of \$972,170.00. They will pay in cash for the cars the sum of \$372,170.00. The balance of \$600,000.00 will be paid in so-called "lease warrants" of \$100,000.00 each. These lease warrants will be dated May 15, 1916, and will mature as follows:

\$100,000.00	November 15, 1916
100,000.00	May 15, 1917
100,000.00	November 15, 1917
100,000.00	May 15, 1918
100,000.00	November 15, 1918
100,000.00	May 15, 1919

The contract further provides that the receivers shall pay 5 per cent interest on such lease warrants, computed semiannually, the interest payments to be represented by six notes in a total sum of \$52,500.00. These interest notes will be dated May 15, 1916, and will mature as follows:

\$15,000.00	November 15, 1916
12,500.00	May 15, 1917
10,000.00	November 15, 1917
7,500.00	May 15, 1918
5,000.00	November 15, 1918
2,500.00	May 15, 1919

The receivers of the Western Pacific Railway Company are now operating it with an insuffieint number of freight cars, and it is desirable that they should, without further delay, acquire the 1,000 box cars. The cash payment of \$372,170.00 will be made from the revenues on hand, and the receivers have ample funds to discharge the \$600,000.00 of notes and the \$52,500.00 of interest charges as the same fall due.

The contract with The Pullman Company provides for the customary conditional sale by which title remains with the vendor until the payment shall have been completed. A copy of this contract has been filed with the application herein as Exhibit "A," to which reference is hereby made.

The jurisdiction of this Commission extends to only those lease warrants and interest notes which mature more than one year after May 15, 1916, the date of issue. This embraces lease warrants in the sum of \$400,000.00 and interest notes amounting to \$25,000.00.

I recommend that this application be granted and submit the following form of order:

ORDER.

Frank G. Drum and Warren Olney, Jr., receivers of the property of Western Pacific Railway Company, having applied to this Commission for authority to issue lease warrants or promissory notes in the sum of

\$400,000.00 and to issue interest notes in the sum of \$25,000.00, as set forth in the foregoing opinion, and for the purposes specified therein, and a hearing having been held and it appearing that the purposes for which it is proposed to issue said \$400,000.00 of lease warrants or promissory notes are not in whole or in part reasonably chargeable to operating expenses or to income, and it appearing further that the purposes for which it is proposed to issue said \$25,000.00 of interest notes are properly chargeable to income, and it appearing to this Commission that said application should be granted,

It is hereby ordered that Frank G. Drum and Warren Olney, Jr., receivers of the property of Western Pacific Railway Company, be authorized and they are hereby authorized to issue \$400,000.00 of lease warrants or promissory notes and to issue \$25,000.00 of interest notes.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The \$400,000.00 of lease warrants or promissory notes herein authorized to be issued shall consist of four lease warrants or promissory notes in the sum of \$100,000.00 each, dated on or about May 15, 1916, and maturing respectively on November 15, 1917; May 15, 1918; November 15, 1918; and May 15, 1919.

(2) The \$25,000.00 of interest notes herein authorized to be issued shall consist of four notes dated on or about May 15, 1916, as follows:

- One note of \$10,000.00, payable November 15, 1917.
- One note of \$7,500.00, payable May 15, 1918.
- One note of \$5,000.00, payable November 15, 1918.
- One note of \$2,500.00, payable May 15, 1919.

(3) The \$400,000.00 of lease warrants or promissory notes shall be used as part payment for 1,000 steel frame box cars from The Pullman Company, in accordance with a contract with the applicants and said The Pullman Company, filed in connection with the application herein as Exhibit "A."

(4) The \$25,000.00 of interest notes herein authorized to be issued shall be issued for the purpose of defraying the interest charges on the aforesaid \$400,000.00 of lease warrants or promissory notes in accordance with the contract between the applicants and The Pullman Company, filed in connection with the application herein as Exhibit "A."

(5) The \$25,000.00 of interest notes herein authorized to be issued shall not be capitalized but shall be charged against applicants' income.

(6) The applicants herein shall report monthly, on or before the twenty-fifth day of each month, the issue of the lease warrants or promissory notes and interest notes herein authorized to be issued as the same shall be issued.

(7) The authority herein granted is conditioned upon the payment by the applicants of the fee prescribed under the Public Utilities Act.

(8) The authority herein granted to issue lease warrants, promissory notes or interest notes shall apply to such lease warrants, promissory notes or interest notes as shall have been issued on or before December 31, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of April, 1916.

Decisions Nos. 3250 and 3257, grade crossings; not printed. See end of volume.

DECISION No. 3252.

IN THE MATTER OF THE APPLICATION OF A. Z. HOLMES AND
BLANCHE HOLMES TO SELL, AND OF RALPH W. STUTZMAN TO
BUY, A WATER SYSTEM.

Application No. 2163.

Decided April 15, 1916.

Applicants apply jointly for permission to transfer a small water system near Lankershim, valued at approximately \$1,000.00, in exchange for property in the city of Los Angeles, and it appearing that transfer will work to the benefit of consumers, application granted.

A. Z. Holmes and Ralph W. Stutzman, for Applicants.

REPORT OF THE COMMISSION.

Applicants seek an order authorizing the transfer of a small public utility water plant located on lot 73, Tract No. 1468, northwest of Lankershim, Los Angeles County, and serving about ten to twenty patrons.

The plant is now owned and operated by Dr. A. Z. Holmes, who lives in Los Angeles, where he is engaged in the practice of his profession, and was acquired by him about a year ago in connection with other property. The plant is too small to justify the employment of one to give a great deal of time to it. He wishes to convey the property to Mr. Stutzman at a valuation of \$1,000.00 in exchange for property in Los Angeles.

Mr. Stutzman, whose employment is also in Los Angeles, is moving with his family onto the adjoining lot, where he or his family will be able to give attention to the plant. He expresses his willingness to assume the obligation of serving the public, and appears, for the reasons above stated, to be better able to do so than the present owner. The transfer appearing to be for the public interest we make the following order:

ORDER.

A. Z. Holmes and wife having applied for authority to sell, and Ralph W. Stutzman having applied for authority to purchase, the

pumping plant located upon lot 73, Tract No. 1468, near Lankershim, Los Angeles County, which plant consists of a 12-inch well, 4-inch cylinder pump, 4-horsepower R. & V. gas engine, 1½-horsepower Buckeye pump jack with 10,000-gallon tank and a pipe line through which water is distributed to about twenty services, and a public hearing having been held thereon and it appearing to be for the public interest that the said conveyance be authorized,

It is hereby ordered that A. Z. Holmes and Blanche Holmes be and they are hereby authorized to sell, and Ralph W. Stutzman be and he is hereby authorized to purchase, the plant in this order described, said property to be conveyed free of encumbrance by good and sufficient grant deed.

The authority hereby given is upon the following conditions:

1. Ralph W. Stutzman shall assume and discharge all of the obligations now resting by law upon A. Z. Holmes and Blanche Holmes to serve the public.

2. The authority hereby given to convey and acquire said property shall not be considered before this Commission or any other public authority or tribunal as representing for rate fixing or purposes other than the present application the value of said property.

3. The authority hereby given shall apply only to such conveyance as may be executed on or before May 10, 1916.

4. Applicants shall report in writing to the Railroad Commission within twenty (20) days after the execution and delivery of deed the fact that deed has been executed and delivered, with a copy thereof and the date on which it was delivered.

Dated at San Francisco, California, this 15th day of April, 1916.

DECISION No. 3252.

IN THE MATTER OF THE APPLICATION OF HUENEME, MALIBU AND PORT LOS ANGELES RAILWAY TO SELL PROPERTY AND OF HUENEME, MALIBU AND SOUTHERN RAILWAY TO PURCHASE PROPERTY AND ISSUE STOCK.

Application No. 2093.

Decided April 15, 1916.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

Applicants having applied to the Railroad Commission for modification or amendment of the order herein to authorize the issue of 560 shares of capital stock instead of 500 shares as specified in the order, so

that the par value of the capital stock authorized to be issued shall equal the amount of the capital stock of Hueneme, Malibu and Southern Railway subscribed upon its organization; and since the issue of \$56,000.00 par value of stock is apparently a nominal amount without close relation to probable value of the property, and there appearing to be no good reason why the application should not be granted,

It is hereby ordered that the order heretofore entered herein be and it is hereby amended so that said order as amended will authorize the issue of 560 shares of the capital stock of Hueneme, Malibu and Southern Railway instead of 500 shares. All the other terms and conditions of said original order shall remain in full force and effect.

Dated at San Francisco, California, this 15th day of April, 1916.

DECISION No. 3254.

IN THE MATTER OF THE APPLICATION OF THE SOUTHWESTERN HOME TELEPHONE COMPANY FOR AUTHORITY TO REFUND OR RENEW CERTAIN OUTSTANDING NOTES WHICH HAVE BECOME DUE AND WHICH WILL BECOME DUE IN NINETEEN HUNDRED SIXTEEN.

Application No. 2117.

Decided April 15, 1916.

Applicant applies for permission to issue \$90,550.00 face value of promissory notes, and to issue and pledge as security therefor \$155,000.00 face value of its bonds and \$19,500.00 face value of bonds of the Redlands Home Telephone and Telegraph Company. These notes are all for the purpose of renewing notes of a like face value similarly secured. Application granted.

Charles A. Rolfe, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is an application of Southwestern Home Telephone Company for authority to issue \$90,550.00 face value of promissory notes, and to pledge as collateral security therefor \$155,000.00 face value of Southwestern Home Telephone Company 5 per cent bonds and \$19,500.00 face value of Redlands Home Telephone and Telegraph Company 5 per cent bonds.

This Commission has heretofore, in Decision Number 1296 (Vol. 4, Opinions and Orders of the Railroad Commission of California, page 247), passed upon the financial condition of this applicant. In said decision, Southwestern Home Telephone Company was advised to take certain steps looking to the improvement of its finances. This company

has from time to time in accordance with said order reported that it is preparing to carry out the recommendations of this Commission.

The applicant now comes before the Commission for authority to renew certain notes and to pledge certain bonds in order that it may in all respects maintain its present position while preparing for the readjustment of its finances. The applicant has made a slight reduction in its floating debt and now asks this Commission that new notes be issued to its present noteholders with the same rate of interest and with the same collateral as they now hold.

In recommending an order herein, it is my opinion that the Commission should allow this applicant to maintain its creditors in its present position while it takes the necessary steps toward financial betterment.

Accordingly I recommend the following order:

ORDER.

Southwestern Home Telephone Company having applied to this Commission for authority to issue \$90,550.00 face value of promissory notes, and to pledge as collateral security therefor \$155,000.00 face value of Southwestern Home Telephone Company 5 per cent bonds and \$19,500.00 face value of Redlands Home Telephone and Telegraph Company 5 per cent bonds, said notes to be used to refund existing indebtedness; and a hearing having been held, and it appearing that the purposes for which it is proposed to issue said notes and to pledge said bonds are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Southwestern Home Telephone Company be and it is hereby authorized to issue \$90,550.00 face value of its promissory notes, and to pledge as collateral security for said notes \$155,000.00 face value of 5 per cent Southwestern Home Telephone Company bonds and \$19,500.00 face value of 5 per cent Redlands Home Telephone and Telegraph Company bonds.

The authority herein granted is granted upon the following conditions and not otherwise:

1. The notes herein authorized to be issued shall bear a rate of interest not to exceed 8 per cent per annum.

2. The notes herein authorized to be issued shall be issued in so far as possible to the following payees and shall be issued to refund notes now held by them as follows:

Date	Term	Payee	Interest, per cent	Amount
Apr. 30, 1910	Two years	Mrs. Mary J. Webster	8	\$10,000 00
Oct. 31, 1910	Two years	Mrs. Mary G. Prendergast	8	1,250 00
Oct. 1, 1911	One year	Prendergast Estate	8	10,000 00
Apr. 25, 1915	One year	F. H. Wells	8	10,000 00
Apr. 25, 1915	One year	J. W. Brock	8	5,000 00
Jan. 21, 1914	Two years	Jos. H. Hale	8	2,000 00
July 7, 1914	One year	Mrs. Mary G. Castellbury	8	2,500 00
Apr. 6, 1914	Demand	Citizens National Bank	8	2,500 00
May 15, 1915	One year	Prendergast Estate	8	8,000 00
May 6, 1914	One year	Mrs. Ellen A. Lewis	7	2,000 00
Aug. 10, 1914	Demand	Citizens National Bank	8	4,500 00
Mar. 17, 1912	Three years	Mrs. Mary S. Sargent	8	6,000 00
May 6, 1914	Demand	First National Bank	8	10,000 00
June 11, 1913	Three years	Alice and Mary Denison	8	2,250 00
May 16, 1914	Two years	Mrs. Frances A. L. Smith	8	1,800 00
Mar. 11, 1911	Three years	E. J. Wolverton	8	1,000 00
May 6, 1914	One year	J. O. Thompson	7	1,000 00
June 3, 1910	Five years	C. H. Rohrer	7½	4,250 00
June 29, 1914	Two years	Gertrude A. Hayes	8	3,000 00
Sept. 7, 1915	Demand	Citizens National Bank	8	3,500 00

3. The \$19,500.00 of Redlands Home Telephone and Telegraph Company bonds herein authorized to be pledged as collateral security for the notes herein authorized to be issued shall be pledged as follows:

(a) Fifteen thousand dollars face value of said bonds as collateral security for a note to be issued to the First National Bank of Redlands in the sum of \$10,000.00 to refund a note of like amount now payable to said bank.

(b) Four thousand five hundred dollars face value of Redlands Home Telephone and Telegraph Company bonds as collateral security for a note of \$3,500.00 to be issued to Citizens National Bank of Redlands to refund a note of like face value now payable to said bank.

4. The \$155,000.00 of Southwestern Home Telephone Company bonds herein authorized to be pledged as collateral security shall be pledged as collateral security for the notes herein authorized to be issued (with the exception of the note of the face value of \$10,000.00 to the First National Bank of Redlands and the note of the face value of \$3,500.00 to Citizens National Bank of Redlands) in such ratio that the face value of the bonds herein authorized to be pledged shall at no time be more than twice the face value of the notes for which they shall have been pledged as collateral security, and at such ratio also that the face value of the

bonds pledged as collateral security for any individual note shall at any time be more than twice the face value of such note.

5. The notes herein authorized to be issued shall be dated and issued not later than January 1, 1918, and shall mature not later than June 30, 1918.

6. The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act as amended.

7. The applicant shall make monthly reports to this Commission of the notes issued under this order, the names of the payee of such note, the rate of interest, the date of maturity, and the bonds pledged as collateral security for said notes.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of April, 1916.

DECISION No. 3255.

IN THE MATTER OF THE APPLICATION OF THE CITIZENS WATER
COMPANY OF SAN JACINTO TO CHANGE AND INCREASE ITS
RATES FOR WATER SERVICE.

Application No. 994.

Decided April 17, 1916.

The Commission heretofore established a schedule of rates effective on the system of applicant. This order is now amended to provide that a consumer failing to pay the minimum loses his preferential right to water in favor of those consumers that have so paid.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas applicant, Citizens Water Company of San Jacinto, filed an application for rehearing herein, in which the only suggested change or amendment of the order heretofore made herein on the 29th day of February, 1916, is that it may be made clear and definite, that any one claiming the use of water must pay the minimum charge for such water or forfeit any special or preferential right to same; and

Whereas it appears that the order heretofore made herein should be amended so as to make definite the right of the company to refuse service of water to any consumer who fails or refuses to pay the minimum charge; now, therefore,

It is hereby ordered that the order heretofore made herein be and the same is hereby amended to read as follows:

ORDER.

“Application having been made by Citizens Water Company of San Jacinto for authority to change and increase its rates for water, and a public hearing having been had and the Commission being fully apprised in the premises,

“It is hereby found as a fact that applicant is a public utility water company serving consumers with water for irrigation purposes for profit and compensation.

“It is hereby further found as a fact that the present rates of applicant for such service are unreasonable and unremunerative, and that the rates set out in this order are just and reasonable rates to be charged by applicant for service of water to all of its consumers.

“Basing its order on the foregoing findings of fact and the further findings of fact contained in the opinion preceding this order,

“*It is hereby ordered* by the Railroad Commission of the State of California that Citizens Water Company of San Jacinto is hereby authorized to put in effect as of March 15, 1916, the following schedule of rates:

“Minimum: \$3.00 for each 1/7 of a miner's inch continuous flow, payable on or before March 15th of each year.

Any person failing to pay said minimum at the time specified shall thereby lose special or preferential right to the use of water, and thereafter shall have no right to the use of water as against a new consumer who pays said minimum and conforms to the rules of the company.

“For water used between March 15th and June 15th, 10 cents per miner's inch day.

“For water used between June 15th and October 15th, 17½ cents per miner's inch day.

“For water used during the remainder of the year, 5 cents per miner's inch day.

“For all water furnished to lands above the level of the ditch to which applicant pumps water, 11 cents per miner's inch day, in addition to the rates hereinabove established.

“Applicant shall, within thirty days from the date of this order, submit for the approval of this Commission proposed rules and regulations governing the service of water to its consumers.”

The foregoing order is hereby approved and ordered filed as the first supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 17th day of April, 1916.

DECISION No. 3256.

IN THE MATTER OF THE APPLICATION OF J. A. GRAVES AND JACOB BEAN TO HAVE CERTAIN PROPERTY RELIEVED FROM THE CHARACTER OF PUBLIC UTILITY PROPERTY.

Application No. 2084.

Decided April 17, 1916.

The Commission having heretofore authorized applicant to transfer certain of its properties, reserving unto itself the water rights therein, and it appearing that such order was so conditioned as to impair the sale thereof, original order amended so as to adequately protect the purity of applicant's water and still insure to the purchaser a clear title.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

Applicants having applied for a modification of the order heretofore entered herein, representing that the properties in said order authorized to be disposed of are well suited for high class residence development, and that under section 1069, Civil Code of California, the reservations directed by the order to be inserted in conveyances might possibly be so favorably construed in favor of the grantors as to authorize the entry for the purpose of drilling wells to take the underground water in lots conveyed, and that such a liberal construction will tend to interfere with the sale of said lots, that it is desired at this time that restrictions for the protection of said water against pollution be reduced to a form satisfactory to the Commission; and, that lot 59 be also made subject to the pipe line easement described in paragraph 3 of the said order; and it appearing to the Commission that the request is reasonable, that it is in conformity with the public interest, and should be granted, and that the phraseology suggested by applicants may properly be inserted in this order,

It is hereby ordered that the original order herein be and it is hereby modified or amended so that paragraph 3 of said original order and the succeeding portions of said order will read as follows, to wit:

"3. The right to conduct water through the present cement pipe line or otherwise through the tunnel underneath the surface of lots eighty-one (81), eighty (80), seventy-nine (79), seventy-eight (78), seventy-seven (77), seventy-six (76), fifty-nine (59), sixty (60), sixty-one (61), sixty-two (62), sixty-three (63), sixty-four (64), sixty-five (65), two (2), one (1) and seventy-two (72), all in said Tract No. 34, and under Oakland avenue and Glenarm street, said tunnel and pipe line being located as shown on plat attached to the application.

"4. The right to all underground water in or under lots one to fifteen (1-15), both numbers inclusive; fifty-two to sixty-

six (52-66), both numbers inclusive; sixty-seven to seventy-one (67-71), both numbers inclusive; seventy-three to eighty-one (73-81), both numbers inclusive, and lot eighty-three (83); all in said Tract No. 34; so far as the same can be taken from said lands by means of the wells heretofore drilled or that may hereafter be drilled upon lots sixteen (16), fifty-one (51), seventy-two (72) and eighty-two (82) of said tract, and the tunnels and pipe lines above described.

"It is hereby ordered that the following described lands are hereby found to be not necessary to the operation of the said utility, and are to the extent described herein, relieved from the burden of their public utility character; but they are subject nevertheless to the said utility's right to the underground water hereinbefore described so far as the same can be taken from said lands by means of the wells heretofore drilled, or that may hereafter be drilled upon lots sixteen (16), fifty-one (51), seventy-two (72) and eighty-two (82) of said tract, and the tunnels and pipe lines above described; and any conveyance of any of said real property described as unnecessary to the operation of said water utility shall be upon the condition that no well or wells shall be sunk or drilled by the purchaser thereof, his successors or assigns, upon any of said real property so conveyed. All of said lands are located in Tract No. 34, and are described as follows, to wit:

"That portion of lot one not hereinabove found necessary to the operation of said water utility; lots two to fifteen (2-15), both numbers inclusive; lots fifty-two to sixty-six (52-66), both numbers inclusive; lots sixty-seven to seventy-one (67-71), both numbers inclusive; lots seventy-three to eighty-one (73-81), both numbers inclusive; and lot eighty-three (83).

"It is hereby further ordered that all conveyances of any of the real property hereinbefore described shall contain a clause reserving to the said utility now operated by J. A. Graves and Jacob Bean, and to any utility of which it may at any time form a part, the right to all underground water in said property, as described and limited in paragraph 4 hereinabove; and any conveyance of any of said real property hereinabove found not necessary to the operation of said water utility shall be upon the condition that no cesspool or privy vault shall be dug or sunk upon any portion of the land conveyed, and that all of the buildings, whether dwelling houses, out-houses, garages or stables, erected upon said premises, together with the washing racks and washing facilities and drainage from any stable or garage erected thereon, shall at all times be connected with the outfall sewer in the public street upon which any property conveyed fronts.

"Conveyances of any of the real property hereinbefore described shall be made only after a certified copy of this order shall have been recorded in the office of the recorder of deeds for Los Angeles County."

Dated at San Francisco, California, this 17th day of April, 1916.

DECISION No. 3257.
CITY OF PITTSBURG
vs.
BLACK DIAMOND WATER COMPANY.

Case No. 870.

Decided April 17, 1916.

Complainant alleges that the rates of defendant company are unjust and exorbitant and petitions the Commission, after an investigation, to establish a fair and reasonable schedule. An investigation shows that though defendant's minimum is far in excess of the usual charges for such service, its income is not unduly high. This condition, it appears, is mostly due to the fact that the same rate is charged to all classes of consumers irrespective of the amount of water used, as no services are metered.

Held, That if services were metered and the larger consumers required to pay a more equitable rate in proportion to the amount of water used, the basic monthly minimum for household service could be considerably reduced. Schedule of flat rates established embodying a rate for various municipal, industrial and domestic purposes, the monthly minimum being reduced from \$1.75 to \$1.25. Meter rates also established providing for a \$1.25 monthly minimum entitling consumer to 500 cubic feet with a charge of 20 cents per 100 cubic feet for next 500 and 15 cents per 100 for all in excess of 1,000. Defendant required to file revised set of rules and regulations for the approval of the Commission. Order effective May 1, 1916.

B. D. Marx Greene, for Complainant.

H. J. Brodsky, for Defendant.

REPORT OF THE COMMISSION.

This is an action on the part of the city of Pittsburg, Contra Costa County, for the fixing of rates for water service charged the municipality and inhabitants thereof.

The defendant, Black Diamond Water Company, is a public utility engaged in the distribution and sale of water to the city of Pittsburg and its inhabitants, and is the sole public agency for that purpose. Controversy as to the rates to be charged by the water company arose on June 16, 1914, when the city board of trustees passed Ordinance No. 31A, fixing water rates for the fiscal year commencing July 1, 1914. That ordinance effected a reduction of 15 per cent in the basic flat rate for domestic consumers, and increased the number of irrigating hours. On June 29, 1914, Black Diamond Water Company, upon complaint filed with the Superior Court of Contra Costa County, secured an injunction *pendente lite*, restraining its enforcement. This cause of action is now pending in the Superior Court, and the water company continues to operate under Ordinance No. 17, an ordinance fixing water rates in the city of Pittsburg for the fiscal year commencing July 1, 1913. On October 6, 1915, shortly after this Commission acquired

jurisdiction, the board of trustees filed formal complaint, alleging that the water rates established for the fiscal year commencing July 1, 1915, were unjust and unreasonable, and requested this Commission to fix just and reasonable rates. Defendant's answer to this complaint alleges that not only are such rates just and reasonable, but that they are insufficient to afford a fair return on its investment. Public hearing was held on this matter at Pittsburg on February 1, 1916.

For many years prior to 1906, the city of Pittsburg, then known as the town of Black Diamond, was supplied with water by the Sacramento River Packing Association, a private corporation engaged in packing and various other enterprises, and having its plant located in the town of Black Diamond.

Black Diamond Water Company was incorporated January 25, 1906, with a capital stock of 500 shares, of the par value of \$100.00 each. Mr. F. E. Booth, defendant's president, holds 498 of these shares, and also controls the packing association. On or about February 1, 1906, Black Diamond Water Company acquired for the sum of \$25,000.00 all the property of the Sacramento River Packing Association pertaining to the water business.

The water supply is pumped from New York Slough, an arm of the Sacramento River, which swings inland some distance from the main river. The water is treated with aluminum sulphate, and delivered into settling tanks, from which, after a sufficient lapse of time to allow for coagulation and settlement, it is at present pumped directly into a 100,000-gallon redwood tank, on a seventy-foot tower, and from this tank delivered after filtration to the distributing system.

The company has practically completed arrangements for bettering the present methods of handling the supply. Upon completion of these plans the water, after receiving preliminary treatment with aluminum sulphate in the two old redwood settling tanks, located at the pumping plant, which have a combined capacity of 133,000 gallons, will be pumped into two new redwood tanks of a capacity of 100,000 gallons each, erected during 1915 at the filtration plant, and re-treated. From these tanks it will then be forced up through the filters, and into the distribution reservoir, after being treated with liquid chlorine, thus reversing the present filtration process. It is also planned to reorganize and improve the pumping equipment some time during the year 1916.

The total aggregate length of the distributing mains is approximately 33,000 lineal feet, of which about 41 per cent consists of 2½-inch, or less, standard screw galvanized pipe; 16 per cent 4 and 6-inch converse and that their application in many instances is unjust is shown by lock joint pipe; and 43 per cent 4 and 6-inch machine banded wood stave pipe.

There are 602 services on the system, of which 60 are inactive. Of these services, only 40, or less than 7 per cent of the total number, are metered. There are 36 fire hydrants situated principally in the business section of the town. The total population served is approximately 3,000. In 1914, about 98,000,000 gallons of water were delivered through the settling tanks, of which about 500,000 were for public use, the remainder being for domestic purposes.

Mr. James Armstrong, one of this Commission's hydraulic engineers, presented a report on water use, operating expenses, and revenues, and submitted an appraisal of the physical properties, based upon the original cost thereof to the company. He shows the probable original cost of the plant as of January 1, 1916, to be \$61,477.00; its depreciated cost by the sinking fund method at \$47,905.00; with a 4 per cent sinking fund annuity of \$1,848.00. These figures are based upon records of actual cost of the different portions of the property, installed as they were at different periods of its growth, and probably fairly approximate the actual cash investment made therefor. He further testified that the plant could be reproduced as a whole, at the present time, for between 20 and 25 per cent less than the amount shown. His estimate of the probable reasonable and proper operating expenses, exclusive of depreciation, for the year 1916, was \$10,000.00 and was based upon an examination of the company's operations for a period of five years. Mr. Armstrong drew no conclusions as to the fair value of this property for rate fixing or any other purposes, but pointed out that a system capable of rendering the same quality of service as is now rendered could be installed at the present time at a much lower figure than has actually been invested.

The engineer for the water company testified that the value of the property for rate fixing purposes, as of January 1, 1915, as measured by its probable original cost, was not less than \$60,540.00; that the value of this property for rate fixing purposes, as measured by its depreciated value, as of January 1, 1915, was not less than \$46,700.00; and that the reasonable allowance for depreciation which would accrue during the calendar year 1915 should not be less than \$2,470.00. Included in these figures is the sum of \$2,000.00 for going concern value. In order to bring the company's estimate down to January 1, 1916, it is, of course, necessary to add fixed capital installed during the year 1915 of \$5,633.57, and deduct accrued depreciation for the same period.

At the hearing held in this matter it was stipulated that the annual reports of defendant company, on file with this Commission, were to be

considered in evidence, and the following tables have been compiled from such records:

Table No. 1.

	Operating expenses, exclusive of depreciation	Depreciation	Total operating expenses	Total operating revenue
1912 -----	\$6,692 24	\$2,048 86	\$8,741 10	\$10,960 41
1913 -----	7,341 19	2,114 57	9,458 76	11,947 37
1914 -----	9,528 43	2,200 00	11,728 43	12,057 43
1915 -----	10,378 70	2,443 64	12,822 34	13,251 01

Table No. 2.

	Net operating revenue	Fixed capital at end of year	Total water used in 1,000 gallons	Gross return per 1,000 gallons used
1912 -----	\$2,219 31	\$52,864 55	No record	-----
1913 -----	2,488 61	53,253 86	101,293	0.0968
1914 -----	329 00	56,820 19	97,645	0.1225
1915 -----	428 67	62,453 76	120,095	0.0865

The following indicates the amount of fixed capital installed annually since 1909 in the form of additions and betterments:

In 1910, \$7,033.05; 1911, \$3,308.74; 1912, \$2,522.76; 1913, \$389.31; 1914, \$3,566.33; 1915, \$5,633.57—a total for the six years of \$22,453.76, or an average of \$3,742.30 per annum. It will be noticed that in every year but one these amounts are in excess of the net operating revenue for the corresponding year.

While the data preceding might indicate that defendant is not earning any large return upon the investment claimed by it, a careful study of this data, together with a full consideration of the testimony, causes us to reach the conclusion that the unsatisfactory condition arises, not as much from a lack of proper proportion between the amount of the investment and the service rendered, nor from an excessive rate, as from the form of rate charged. A flat rate tends to an excessive use of a commodity, whereas metered rates not only effect an economy in the use but result in an equitable distribution of the expense of production among the users.

The average return per 1,000 gallons of water used in the last three years, is only about 10½ cents, while the lowest meter rate is 15 cents, applicable to municipal use, with a 20 cent rate for commercial use—this latter use constituting by far the larger portion of the metered supply.

The flat rates now in effect, particularly the basic one of \$1.75 per month for the ordinary family, are among the highest in the State,

the policy of the company in enforcing them. Mr. W. G. H. Croxon, defendant's superintendent, testified, for instance, that no charge was made for horses or cows kept in private stables, and indicated that in many cases where there were only one or two in the family, and the use of water was evidently very small, payment lower than the ordinance rate was accepted. There is no doubt but that the converse of this situation is also true, and that in many cases where the correct ordinance rate is charged the use of water is excessive, in the sense heretofore indicated. The advantages and disadvantages of metering are not always evident until put to the test. The benefits to be derived from a metered system are fairly well established. They result in a conservation of the supply, an equitable distribution of the charges, and a saving in operating expenses, in this particular case chiefly in pumping and purification costs.

While the disadvantages of metering in relation to this plant will not be fully evident until the system has been established for some time, there are several phases which may, or may not, prove to be faults, that should be considered.

The installation of meters calls for an additional capital investment, the returns for which must be derived through rates. The action of the water itself upon the meters after being subjected to treatment by sulphate of aluminum and liquid chlorine, and the impossibility of removing all the fine particles of sand from the river water, may result in an unusually heavy meter maintenance expense. Under any supply where the use has been almost entirely unmetered this Commission is confronted with an uncertainty in the results to be derived from any rate, or form of rate, which contemplates a metered system. It can only apply its judgment and experience gained in other cases to the particular case at hand, and if later further consideration proves necessary, profiting by the knowledge gained, effect readjustment with full protection to both the consumers and the utility.

Before proceeding to the order it is desired to point out one phase of this situation which will undoubtedly result in an increase in the gross operating revenues of this company without any particular increase in the expense. The city of Pittsburg has enjoyed an unusually rapid growth during the last few years, and all indications point to a continuance of this activity. The establishment of manufacturing plants in the vicinity of Pittsburg, and the resulting influx of population, will add many consumers to the system with but slight additional expense.

ORDER.

Complaint having been made by the city of Pittsburg against the rates charged by Black Diamond Water Company, and a public hearing having been held in this proceeding and the same being now ready

for decision, the Railroad Commission hereby finds as a fact, that the rates now being charged by Black Diamond Water Company for water delivered to its consumers are unjust and unreasonable, and that the rates hereinafter set out in this order as the rates to be charged by said Black Diamond Water Company for water delivered to its consumers are just and reasonable rates, and, basing its order upon its findings of fact and the further findings of fact contained in the opinion preceding this order.

It is hereby ordered by the Railroad Commission of the State of California that Black Diamond Water Company establish and charge the following schedule of rates for water:

Municipal.

Fire hydrants, \$1.50 per month per hydrant.

Street sprinkling and sewer flushing, 12 cents per 100 cubic feet for all water used.

Municipal buildings and departments at regular commercial rates.

Commercial. Flat Rates.

To buildings containing one toilet and occupied by a family of two adults and children under age	\$1.25 per month
Each additional toilet	.20 per month
To small stores and offices	1.00 per month
To warehouses	1.50 per month
To saloons	2.00 per month
To bakeries for monthly use of flour, for each 25 barrels or less	1.50 per month
To wagon and blacksmith shops	1.50 per month
To livery stables, including carriage washing, not less than	3.00 per month
To persons slaking lime, for each barrel	10 cents
To persons slaking cement, for each barrel	10 cents
To persons wetting brick, per thousand	10 cents
To persons keeping horses or cows, in private stables or sheds, for one horse, including water for washing vehicles	.15 per month
For each additional horse so kept	.10 per month
For each additional cow	.10 per month
To barber shops, for single chair	1.00 per month
For each additional chair	.20 per month
To water troughs on sidewalk	1.00 per month
To bath tubs in barber shops, hotels, boarding or lodging houses, accessible to the public, per tub	.50 per month
To horses and cows, not provided for above	.10 per month
To hotels, boarding and lodging houses, containing ten rooms and over, taverns and seminaries, in addition to rate for saloon if saloon is operated in conjunction with hotel	3.00 per month
For irrigating gardens and grounds, for every lot not exceeding 50 feet	.50 per month
Hours for irrigating lawns, gardens, or grounds, 5.00 a.m. to 8.30 a.m. and 5.00 p.m. to 8.00 p.m.	

Metered Rates.

\$1.25 per month for 500 cubic feet or less.

Next 500 cubic feet at 20 cents per 100 cubic feet.

Use in excess of 1,000 cubic feet at 15 cents per 100 cubic feet.

Special contract rates for large consumers and industrial users, to be approved by the Railroad Commission. Meters to be installed at the expense of the company, at either the option of the company or upon request by the consumer.

It is hereby further ordered that Black Diamond Water Company file with this Commission within thirty (30) days from date of this order a schedule of the rates as herein set out, together with rules and regulations compiled in accordance with this Commission's Decision No. 2879, in Case No. 683.

This order shall become effective on May 1, 1916.

Dated at San Francisco, California, this 17th day of April, 1916.

DECISION No. 3258.

IN THE MATTER OF THE APPLICATION OF SIERRA RAILWAY COMPANY OF CALIFORNIA FOR ORDER RELIEVING PETITIONER FROM COMPLIANCE WITH THE PROVISIONS OF CHAPTER 494 OF THE LAWS OF 1915.

Application No. 3258.

Decided April 17, 1916.

REPORT OF THE COMMISSION.

Sierra Railway Company of California having filed its application asking that the Commission authorize said railway company to permit its engineers, firemen, motormen, conductors, brakemen and other trainmen and dispatchers to receive, deliver and transmit at any and all receiving or forwarding telephone or telegraph instruments any order for the movement of its trains, and the Commission being of the opinion that said application is reasonable and should be granted,

It is hereby ordered that the application in this proceeding be and the same is hereby granted.

Dated at San Francisco, California, this 17th day of April, 1916.

Decision No. 3259, grade crossing; not printed. See end of volume.

DECISION No. 3260.

IN THE MATTER OF THE APPLICATION OF CARMICHAEL IRRIGATION DISTRICT TO FIX THE COMPENSATION TO BE PAID FOR THE WATER DISTRIBUTING SYSTEM OWNED BY D. W. CARMICHAEL IN CARMICHAEL COLONY NUMBER TWO.

Application No. 2102.

Decided April 17, 1916.

Applicant petitions the Commission to establish a value for the Carmichael Water System for condemnation purposes, and after investigation the sum of \$14,200.00 is found to be a just and reasonable compensation for such properties.

Frank K. Atkinson, of Elliott & Atkinson, for Carmichael Irrigation District.

D. W. Carmichael, in propria persona.

REPORT OF THE COMMISSION.

The petitioner herein is an irrigation district and makes application in accordance with section 47 of the Public Utilities Act, as amended, to take, under eminent domain proceedings, the public utility system hereinafter described and to have this Commission fix a price upon the water distributing system supplying Carmichael Colony No. 2. A general description of the property is as follows:

All that certain steel pipe line and water distributing system in Carmichael Colony No. 2, in the county of Sacramento, State of California, constructed and laid in said Carmichael Colony No. 2 in 1915, by the Sacramento Pipe Works of Sacramento for D. W. Carmichael of the said city of Sacramento, being the same system and property referred to and described in Application No. 2102, filed with the Railroad Commission of the State of California by Carmichael Irrigation District on February 25, 1916.

The said lands on which said system is located are included in what is known as Carmichael Colony No. 2, in the county of Sacramento, State of California, map of which said colony was filed in the office of the county recorder of the said county of Sacramento on May 11, 1914.

At a public hearing at Sacramento, March 8th, testimony was introduced tending to show the value of different portions of the water distributing system.

The original cost of the system in 1915 was given as \$15,000.00 by D. W. Carmichael, the owner. This amount was paid to the contractors and there was no additional amount expended for interest during construction, legal, engineering or other overhead expenses.

A valuation of the physical properties of this system was presented at the hearing by the Commission's hydraulic engineers and amounted to the following:

Reproduction cost	\$16,194 00
Reproduction cost less depreciation	14,965 00

The stipulation was made, however, that for the full development of the tract the 8-inch main pipe connecting the Hilborn pipe system with the 12-inch pipe in this system would have to be replaced by a larger pipe. Taking up this main and relaying in another location would reduce the worth of the system to the extent of the cost thereof, which it was estimated would amount to \$774.00.

D. W. Carmichael testified that he had paid \$10.00 per acre to the American Canyon Water Company for certain water contracts, but that the price at which he had sold the land (about one-half of the acreage

being sold) and the price at which he held the remainder, included as a basis not only the original cost of the land but the cost of the irrigation project, including the price paid for these water contracts, interest and a profit on the total investment. The owners of the land in the irrigation district have, therefore, virtually purchased the water contracts in the price paid for the land, so that Mr. Carmichael did not seek, nor does the Commission feel that he has in equity, any claim against the irrigation district for those contracts beyond one, wherein only a nominal value is given them.

We find as a fact that \$14,200.00 is a just compensation to be paid by the Carmichael Irrigation District to D. W. Carmichael for the property listed and described in this opinion.

ORDER.

Carmichael Irrigation District having applied to this Commission to fix a just compensation to be paid to D. W. Carmichael for the water distributing system described in the opinion hereto, and a hearing having been held and being fully apprised in the premises,

The Commission hereby finds as a fact that fourteen thousand two hundred (14,200) dollars is a just and adequate compensation to be paid by the Carmichael Irrigation District to D. W. Carmichael for the property described in the opinion hereto.

Dated at San Francisco, California, this 17th day of April, 1916.

DECISION No. 3261.

IN THE MATTER OF THE APPLICATION OF ISAIAH HARTMAN,
OPERATING UNDER THE NAME OF LORENZO WATER COMPANY,
FOR AN ORDER FIXING VALUE OF REAL ESTATE AND WATER
RIGHTS.

Application No. 2167.

Decided April 17, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Isaiah Hartman, who operates a public utility under the name of Lorenzo Water Company, having filed this application asking the Commission to place a value upon certain nonutility property which he proposes to acquire, and it appearing to the Commission that under the Public Utilities Act the Commission is given no jurisdiction to make a finding such as is requested in this proceeding,

It is hereby ordered that the application herein be and the same is hereby dismissed.

Dated at San Francisco, California, this 17th day of April, 1916.

DECISION No. 3262.

IN THE MATTER OF THE APPLICATION OF LATON AND WESTERN
RAILROAD COMPANY AND THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY FOR APPROVAL OF LEASE.

Application No. 2094.

Decided April 19, 1916.

REPORT OF THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

The Commission having on February 25, 1916, made an order approving a certain lease described in said order and under the terms of which The Atchison, Topeka and Santa Fe Railway Company agrees that it will for a period of thirty days, beginning February 22, 1916, operate the line of railroad owned by Laton and Western Railroad Company under certain conditions specified in the agreement, and applicants having asked for the approval of the Commission to an extension of the term of said lease to and including Monday, June 26, 1916, and it appearing to the Commission that such request is reasonable and should be granted,

It is hereby ordered that this Commission give its approval to an extension to and including Monday, June 26, 1916, of the term of the lease of the line of Laton and Western Railroad Company by The Atchison, Topeka and Santa Fe Railway Company referred to above.

Dated at San Francisco, California, this 19th day of April, 1916.

DECISION No. 3263.

M. E. STREIFF ET AL.

vs.

SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS.

Case No. 880.

Decided April 19, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainants in the action entitled as above having, on April 18, 1916, made written request that the complaint be dismissed,

It is hereby ordered that this proceeding be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 19th day of April, 1916.

DECISION No. 3264.

IN THE MATTER OF THE APPLICATION OF CLEAR LAKE SUSPENDED
MONORAIL COMPANY FOR CERTIFICATE OF PUBLIC CON-
VENIENCE AND NECESSITY.

Application No. 2210.

Decided April 19, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Clear Lake Suspended Monorail Company having applied to this Commission for a certificate of public convenience and necessity under section 50 of the Public Utilities Act, and it appearing that such a certificate is not required in this case under the provisions of that section, and applicant having accordingly asked that the application be dismissed without prejudice,

It is hereby ordered that said application be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 19th day of April, 1916.

DECISION No. 3265.

IN THE MATTER OF THE APPLICATION OF CARMICHAEL IRRIGATION
DISTRICT TO FIX THE COMPENSATION TO BE PAID FOR THE
WATER DISTRIBUTING SYSTEM OWNED BY L. A. HILBORN IN
CARMICHAEL COLONY NUMBER ONE.

Application No. 2101.

Decided April 19, 1916.

Applicant petitions the Commission to fix the just compensation to be paid for the system of L. A. Hilborn, which serves the Carmichael Colony No. 1 with water, and after investigation the sum of \$7,500.00 is found to be a just and equitable amount for such purposes.

Frank K. Atkinson, of Elliott & Atkinson, for Carmichael Irrigation District.

E. P. Hilborn, for L. A. Hilborn.

REPORT OF THE COMMISSION.

The petitioner herein is an irrigation district and makes application in accordance with section 47 of the Public Utilities Act, as amended, to take, under eminent domain proceedings, the public utility system hereinafter described, and to have this Commission fix a price upon the

water distributing system supplying Carmichael Colony No. 1. A general description of the property is as follows:

All that certain redwood stave pipe water system, together with all water pipes, main line and laterals, water connections and taps of every kind, nature and description, together with all equipments, tools and personal property of every nature, kind and description, belonging thereto and used in connection with said water pipe system, together with all rights of way acquired and belonging to said system now being situated and located in and on that certain tract of land commonly known as The Carmichael Colony situated in Sacramento County, California—the above described pipe system being the same distributing system sold and conveyed by D. W. Carmichael of the county of Sacramento to the American Canyon Water Company by bill of sale dated November 30, 1912.

Also all the right, title and interest of Lewis A. Hilborn in and to the following water contracts and agreements, to wit:

(1) Contract dated February 21, 1910, made by and between the American Canyon Water Company, party of the first part, American Irrigation Company, party of the second part, and D. W. Carmichael, party of the third part; acreage, 2,069.42.

(2) Contract made November 30, 1912, by American Canyon Water Company, party of the first part, and D. W. Carmichael, party of the second part; acreage, 1,126.64.

(3) Contract, bill of sale, and agreement dated November 30, 1912, made by and between D. W. Carmichael, party of the first part, and American Canyon Water Company, American Irrigation Company, and California Corporation, parties of the second part.

(4) Contract made May 21, 1910, between American Canyon Water Company, party of the first part, American Irrigation Company, party of the second part, and H. A. Lewis, John C. Ing, and W. E. Trainor, the parties of the third part; acreage, 400.

(5) Contract dated November 16, 1910, between the American Canyon Water Company, party of the first part, American Irrigation Company, party of the second part, and W. E. Trainor, party of the third part; acreage, 270.

(6) Contract dated February 8, 1911, between American Canyon Water Company, party of the first part, American Irrigation Company, party of the second part; and W. E. Trainor, party of the third part; 150.91 acres.

(7) Contract made on the fourth day of April, 1911, between American Canyon Water Company, as first party, American Irrigation Company, second party, and Orange Land Company, a corporation, third party; 158.69 acres.

(8) Contract made on the twenty-seventh day of May, 1911, between American Canyon Water Company, party of the first part, and Walter E. Trainor, party of the second part; 1,272 acres.

(9) Contract made the twenty-seventh day of June, 1912, between American Canyon Water Company, party of the first part, and Walter E. Trainor, party of the second part.

The distributing system and the contracts hereinabove described are these conveyed to Lewis A. Hilborn by trustee's deed made

July 6, 1914, by and between First Federal Trust Company, a corporation, trustee, named in that certain mortgage or deed of trust executed by American Canyon Water Company under date of July 1, 1909, party of the first part, and Lewis A. Hilborn of the county of Alameda, party of the second part, which said deed was recorded July 15, 1914, in Book 406 of Deeds, page 231, Sacramento County Records.

The lands on which said system is located are included in what is known as Carmichael Colony No. 1, in the county of Sacramento, State of California, map of which said colony was filed for record in the office of the county recorder of said county of Sacramento on March 11, 1910.

At a public hearing in Sacramento, March 8, 1916, testimony was introduced tending to show the value of different portions of the water distributing system.

No detailed records of original cost are obtainable. In Application No. 1701, which was a proceeding for the adjustment of rates and the testimony in which was by stipulation made a part of the testimony herein, the statement was made, however, by L. A. Hilborn, the owner, that the original cost of the system in 1909 was \$35,087.00.

A valuation of the physical properties of this system was presented at the hearing by the Commission's hydraulic engineers and amounted to the following:

Reproduction cost	\$24,484 00
Reproduction cost less depreciation	10,145 00

The stipulation was made, however, that deferred maintenance and the cost of taking up some of the mains and relaying in other locations would materially reduce the worth of the system below reproduction cost, less depreciation. It was estimated that these items would amount to about \$3,000.00.

No estimate was made of the value of water contracts or other rights owned by L. A. Hilborn in connection with this pipe system, and no opinion was expressed as to what extent consideration should be given them.

It is in evidence that an offer was made by L. A. Hilborn to sell the above property to the district for \$7,500.00, which price was considered as being reasonable by the attorney for the irrigation district.

We find as a fact that \$7,500.00 is a just compensation to be paid by the Carmichael Irrigation District to L. A. Hilborn for the property listed and described in this opinion.

ORDER.

Carmichael Irrigation District having applied to this Commission to fix a just compensation to be paid to L. A. Hilborn for the water distributing system described in the opinion herein, and a hearing having been held and being fully apprised in the premises,

The Commission hereby finds as a fact that seventy-five hundred (7,500) dollars is a just and equitable compensation to be paid by the Carmichael Irrigation District to L. A. Hilborn for the property described in the opinion hereto.

Dated at San Francisco, California, this 19th day of April, 1916.

DECISION No. 3266.

E. N. SPAFFORD ET AL.

vs.

FRESNO CANAL AND IRRIGATION COMPANY AND Kerman Water Company.

Case No. 858.

Decided April 19, 1916.

Complainants attack as unsatisfactory and inadequate the service rendered by defendants. An investigation shows that defendants have failed to deliver water to consumers to which they were ratably entitled under contract, that they have failed to keep their canals and ditches in proper shape, and have also failed to deliver water to consumers in rotation as provided for under a prior order of the Commission.

Held, Defendant, Fresno Canal and Irrigation Company, directed to supply water for irrigation, in amounts to which consumers are ratably entitled, to all tracts of 160 acres or less which were receiving water prior to the irrigation season of 1915, as described in the order, but not including the lands to which defendant reserved the right to contract for excess water. Defendant not to supply any additional lands with water unless first so authorized by the Commission in writing. Defendant directed to hereafter maintain its canals and ditches in proper condition and hereafter to keep them free, as far as possible, of all weeds and other vegetation, and to retain a sufficient number of employees for such purposes and to see that water is properly delivered. Rules and regulations established for Kerman Water Company, effective April, 1916.

E. N. Spafford, for Complainants.

Short & Sutherland, by W. A. Sutherland, for Fresno Canal and Irrigation Company.

L. L. Cory, for Kerman Water Company.

REPORT OF THE COMMISSION.

The issues raised by the pleadings are whether defendants are under original contract obligation to deliver one cubic foot of water upon each quarter section of complainants' lands in the vicinity of Kerman, in Fresno County; whether the amount and place of delivery has been changed by certain subsequent contracts; whether water has been improperly diverted from complainants' lands; and whether defendants, by failing to deliver to complainants directly water in suitable rotation and amounts claimed have violated Rule 9 of the rules established by the

Commission in Decision No. 1385 of March 28, 1914, relating to service of water by defendant, Fresno Canal and Irrigation Company, hereinafter referred to as the canal company; and whether defendants have permitted their canals and ditches to become choked with weeds and to spread weed seeds upon complainants' lands.

The complainants are nearly all owners of lands in a tract of 31,927 acres lying just north of Kerman, commonly known as, and hereinafter referred to, as the bank tract. Water for irrigating said lands is supplied by defendant canal company under a series of 200 water right contracts issued by it March 20, 1889, to the Bank of California, and located upon the lands and recorded. This was done under a contract of the same date between the same parties, providing for the construction by the canal company of a system of canals and ditches to convey water to each of the 200 quarter sections of land in the bank tract, then owned by the bank, in consideration for which the bank was to pay the canal company \$150,000.00, and the parties were to settle certain pending litigation and dismiss the cases. The system of canals and ditches was constructed to the quarter sections, the money paid, and the litigation settled, all as agreed. Complainants, whether owning lands within or beyond the bank tract, hold the same form of water contracts as the 200 water right contracts referred to.

The 200 water right contracts are identical in form and provide that the canal company, referred to as first party, will furnish from its main canal or a branch thereof "all the water that may be required, not exceeding at any time one cubic foot of water per second for the purpose of irrigating" the quarter section specifically described. The contract also provides among other things that the canal company will place a box or gate in the bank of its canal "at the most convenient point for the conveyance of the water to said land" as soon as the owner begins the construction of the ditch on his land; that said ditch may at the option of the company be a branch ditch of the company, under its control, to be used or enjoyed by it provided the "use will not interfere with the flow of water to said land"; that the owner will not permit the water to be used on any other land or permit it to run off to contiguous land or run to useless waste, and will construct ditches to carry the surplus water, if any, back into the company's canal or a branch thereof. The water is to form an appurtenance to the land "and the right thereto shall be transferable only with and run with said lands," and the canal company is bound by the contract to all subsequent owners of the land but to no other persons. The canal company is not to be responsible for deficiency of water by drought, insufficient water in the river or certain other causes. It is also agreed that the canal company may sell 1,000 water rights of one cubic foot each, and if the aggregate

quantity of water in the canals of the canal company falls short of 1,000 cubic feet flowing per second, then each water right shall represent only one-thousandth part of the aggregate quantity. It is further provided "that this agreement and the covenants therein contained * * * run with and bind the land." The payment to the canal company is to be \$100.00 per year per quarter section, or 62½ cents per acre.

While each of the water right contracts provides for "all the water that may be required, not exceeding at any time one cubic foot per second for the purpose of irrigating" the land, the general contract between the canal company and the bank provides that the canal company will deliver 200 contracts in the form set forth in Exhibit "A" attached and made a part thereof, each for the sale of a "water right of one cubic foot of water per second," each contract "to be attached and made appurtenant to a separate quarter section of land to be described in the contract for sale thereof." We think the specific provisions of the several 200 contracts "for all the water that may be required, not exceeding one cubic foot," must be considered controlling, although they are referred to in the general contract as being for one cubic foot of water per second.

Defendants admit an original obligation upon the canal company to deliver water upon each quarter section, but claim it was modified by subsequent agreements dated June 7, 1897, and September 15, 1908, by which after September 1, 1897, the canal company was to deliver the water at certain points on its main canals and be relieved from the operation of the laterals and the distribution of the water; and by which agreements the time and terms of annual payments were also modified. Since said date defendants have been acting upon this theory. None of the complainants or holders of the individual water right contracts are parties to these agreements. Each is between the canal company and the then owner of the unsold lands in the bank tract. Clearly the rights of complainants under their water right contracts with the canal company could not be modified by contracts between the canal company and third parties. This is recognized by the canal company and the subsequent owners of the bank tract in the two agreements of June 7, 1897, and September 15, 1908. In the first of these the San Francisco and Fresno Land Company is successor in interest to the bank. It guarantees that for ten years the terms and conditions of the agreement shall apply to and bind all of the land in the bank tract, expressly including that which had been sold and of which it was not then the owner. Under the agreement of September 15, 1908, the Fresno Irrigated Farms Company (hereinafter referred to as the farms company), which had succeeded to the interest of the bank, agrees that so far as can be done it will obtain the consent

and approval of other landowners in the bank tract to the agreement, but whether successful or not it warrants that it or its successors will accept and receive the water at the places provided, on the main canals of the canal company, and will convey it to the lands entitled thereto, and that the canal company shall be relieved of such obligation under the 200 water right contracts, and that it will take all steps necessary to comply with the said contracts on behalf of the canal company.

Both modifying contracts expressly provide that all the individual water rights, including the 200, shall "remain in full force and effect, each as a separate and independent agreement."

Under the modifying contracts the canal company is to furnish water through six of its main canals specified, which are to be retained and operated by it, and the other party is to operate the rest of the system in the bank tract and in 2,386.77 acres of adjoining lands added to the irrigated area by the contract of September 15, 1908, now in force, which provides water for it at the same ratio.

Under the contract of June 7, 1897, the canal company reserved the right to convey through the six canals excess water for 34 quarter sections of contiguous lands, after the bank tract had been supplied under the contract. It also provided that five water rights of Collins Bros. were to come under the contract and be treated as though owned by the land company. Under the present contract the canal company is to maintain the six canals as previously agreed and will furnish to the farms company "all the water that may be demanded, not exceeding 214½ cubic feet of water per second"; 15 feet to be delivered at the point where the flume ditch intersects the ditch on the east line of section 12; 160 feet at the intersection of the Herndon Canal with the east line of section 11, township 13 south, and range 18 east; 25 feet at the junction of the Thompson and Houghton canals and 14½ feet provided for the 2,386.77 acres of new land also be delivered at the junction of the Thompson and Houghton canals; the farms company to receive the water at said points and conduct it upon the lands through the ditches already constructed or which might thereafter be constructed; "but it is expressly agreed that all 214½ cubic feet of water or any part thereof may be used upon all said lands or any part thereof."

The farms company agrees to pay a lump sum equivalent to 50 cents per acre, but the canal company is to collect from the landowners 62½ cents per acre annually until it has collected the full amount to be paid by the farms company, after which the balance collected shall be paid over to the farms company.

Pursuant to agreement the farms company organized defendant, Kerman Water Company, for the purpose of separating its public

utility activities from its land business, and assigned to it the modifying contract of September 15, 1908. Kerman Water Company now operates the lateral canals and ditches, and distributes water to the users. For this service it receives 12½ cents an acre, being the difference between the 62½ cents per acre which the landowners agree to pay and 50 cents per acre which the farms company pays in bulk to the canal company. The canal company bills and collects the rate of 62½ cents per acre and credits the amount to the farms company upon its obligation to pay the lump sum equivalent to 50 cents per acre. Kerman Water Company is protected in its operations by guarantee contained in contract with the farms company under which it receives its 12½ cents per acre for the service rendered and is guaranteed against loss in operation of the system. The relation of defendant, Kerman Water Company, to the canal company, to the farms company and to the owners of lands in the bank tract is further shown in Decision No. 2216 of March 3, 1915, upon application by the farms company and Kerman Water Company for authority to the latter company to acquire the public utility property and business of the farms company, and issue stock in payment therefor. (Vol. 6, Opinions and Orders Railroad Commission of California, p. 354.) The record in that matter was introduced in evidence at the hearing of the present case.

The testimony showed that the loss of water in transmission through the laterals and ditches of the system, after leaving the main canals, is generally about 50 per cent; but is about 75 per cent in one of the large canals. In its contracts with complainants the canal company does not expressly contract against such losses. On this point the contracts provide that the canal company (described as the party of the first part)

“shall not be responsible for deficiency of water caused by drought, insufficient water in the river, hostile diversion or obstruction, forcible entry, temporary damage by flood, or other accident, but that the party of the first part shall use and employ all due diligence, at all times, in restoring and protecting the flow of water in its canals and ditches.”

By contracting to furnish the water on the land, and not excepting such losses in the contract, the canal company assumes the burden of the losses in transmission. The complainants, on the other hand, by their contracts assumed the duty to avoid waste of water. The contracts provide that users

“will not use or permit the water to be used on any other land except the land above described, or permit the water to run off on any contiguous land, or permit the water to spread out in low places on such land, or in any way run to useless waste, and will construct ditches to convey the surplus water, if any there be, back into the canal of said company, or a branch thereof.”

Prior to the purchase by the farms company and the contract of September 15, 1908, there had been sold about 6,000 acres of land from the bank tract. The farms company subdivided about 26,000 acres remaining. Of these lands about 12,000 acres have been sold, leaving some 14,000 acres now owned by it in the bank tract. It does not appear how much of the 2,386.77 acres added to the area by the contract of September 15, 1908, with the farms company has been sold.

The canal company brings water from Kings River, a distance of about 30 miles, and delivers it in its main canals at three points in the bank tract for distribution through the system by Kerman Water Company. It attempts to maintain delivery at these points of a total of 253½ cubic feet of water per second, being 200 second-feet for the bank tract, 14½ second-feet added by the contract of September 15, 1908, with the farms company, 5 second-feet for the water rights of Collins Bros. and 34 quarter sections of contiguous land, both of the latter covered by the contract of June 7, 1897. It takes the position that its obligation under the contract is performed by the delivery of this amount of water at these points, or a correspondingly smaller amount in the event of deficiency due to no fault of its own. It showed delivery of water at these points between March 1, 1915, and September 20, 1915, with practically daily readings, a summary of the deliveries according to each party from its records being as shown below:

In terms of average flow in second-feet.

1915, month	1 Kings River	1 Fresno Canal	1 Shares of Kerman Water Company	1 Delivered to Kerman Water Company	2 Delivered to Kerman Water Company
March -----	1,324	784	174	133	-----
April -----	3,768	1,198	255	275	*282
May -----	6,941	1,196	255	266	266
June -----	11,510	1,198	255	253	235
July -----	3,980	1,176	253	269	242
August -----	553	417	105	134	129
September 1-20 -----	316	234	59	67	* 68

¹Records of Fresno Canal and Irrigation Company.

²Testimony of Miller, former superintendent Kerman Water Company.

³April 19th to end of month only.

⁴September 1st to 15th only.

Complainants offered testimony to the effect that the amount of water delivered upon the lands under water rights would not exceed as an average for the season .434 of a second-foot per quarter section. This estimate assumes a loss of 50 per cent in transmission. During a portion of the time the supply available was admittedly insufficient to meet all demand.

The acreage actually irrigated in the bank tract, other than the small area irrigated by the farms company, was shown by defendants from their records of July, 1915, to be:

	Acres
Alfalfa -----	3,704
Deciduous fruit -----	906
Grapes -----	1,031
Corn -----	116½
Total -----	5,757½

The contention of complainants that an inadequate water supply had been received and that it amounted to less than one second-foot per quarter section was supported by a number of witnesses. Definite measurement of amounts delivered has not been made by defendants. The only points where fairly accurate measurements and records have been made are at the three points where water is delivered to Kerman Water Company by the canal company. The various witnesses, however, clearly established the fact that a few consumers have received satisfactory irrigation service practically throughout the entire season; while others have been unable, even after repeated request, to obtain any quantity of water sufficient for practical use.

E. N. Spafford testified that he has five acres in alfalfa, and during 1915 had water twice only and received a total equal to .22 cubic feet per second per 160 acres for 150 days, being about one-fifth the amount claimed by him under his contract.

G. H. Weitz testified that he receives two second-feet of water for his 40 acres, for 60 hours at each run, and intimated that he was not seriously inconvenienced by shortage of supply.

R. M. Barstow testified that he was unable to obtain sufficient supply and discontinued use on 50 of his 160 acres after April, 1915, and that with the entire supply it required sixteen days to irrigate the remainder.

Other consumers testified to every gradation of service conditions, from total inability to obtain any appreciable supply of water, to entire satisfaction with the amounts received.

It is clearly established by complainants' witnesses, including C. A. Miller, formerly superintendent of the Kerman Water Company's ditch system, that the methods used have not resulted in equality of service. The Kerman Water Company measured water in an approximate way at a few points on the system, and instructed its ditch tenders to deliver approximately the same amount at these points at all times. On some laterals there has been an endeavor to organize users and to provide definite rotation schedules, with but little success. Even at the few points where an attempt is made by the company to regulate the supply, the methods of measurement are shown by the testimony to have been mere approximations. With any shortage in supply there has been no

real effort to see that distribution was prorated according to demand even at these points. It has been the practice to turn water for a number of users into a common ditch, leaving the users to distribute it among themselves. On some such ditches the results are fairly satisfactory, but usually the user nearest the head of the ditch receives far the best service. Provision will be made in the rules for such cases.

It was shown that users below a large tract known as the Empire Vineyard experienced unusual difficulty in procuring water, owing to the very large amounts used on the vineyard, and lack of control. The canal company's engineer stated that it planned to place locks on all turn-outs in the Empire Vineyard and have them under control of the company.

Great difficulty, it is alleged, has been experienced by the Kerman Water Company, due to diurnal variation of flow at the points where water is received from the canal company. This, according to the testimony of defendants, is caused by evaporation in the main canals, but there is doubt whether this is the principal cause. The testimony shows that there is tendency to turn water back into the main canals, from branches and individual turn-outs at night, rather than care for a continuous flow. This is a practice that can be minimized by proper operating methods.

Complaint of breakage of canals and lateral ditches was shown by the testimony to have been due in part to the assumption of obligation by the Kerman Water Company or its predecessors to provide water for lands at too great an elevation, to lack of system in water delivery, and to the unauthorized act of consumers returning water to the laterals. All these causes can be corrected by the establishment and rigid observance of reasonable and proper rules.

Admittedly the irrigators in this community, as in many others, are themselves largely responsible for the conditions complained of. While it is the duty of water utilities to adopt and practice suitable methods for adequate and equitable water service, it is practically impossible to operate successfully, unless irrigators will co-operate. It was shown that some irrigators on the bank tract let water run at will all night, or for many hours during the day; that it is permitted to run off the irrigators' land, and that it is found running to waste upon highways some distance from canals and ditches. Strange as it may seem, many of the irrigators seem unable to realize that the individual, by wasting water, injures his neighbor and himself. The thoughtless answer is that the individual irrigator has the right to do as he will with the water while it is running on his land or while it is his turn to use it in the usual rotation. As already shown herein, the contract holders expressly agreed in each instance not to waste water. The honorable

and faithful discharge of this obligation against waste will improve conditions.

The Commission will require water utilities to correct unsatisfactory conditions in so far as they can do so, but failure of irrigators to comply with the rules promulgated will tend in case of future complaints to exonerate utilities, in part.

The canal company has caused several criminal prosecutions for unauthorized taking of water, but finding juries of the vicinity will not convict, has naturally lost interest in attempting to stop the practice. Co-operation in this matter as in all other matters affecting the interests of users and utilities, is essential to the highest development of the service.

The farms company grew 100 acres of rice as an experiment during the season of 1915, on its lands south of Kerman. As a result it is considering doubling its acreage in rice for 1916. During part of the irrigating season prior to September the farms company used three feet of water from the system on its rice field. After about the first of September it pumped water for its rice. Rice culture requires several times the water necessary for growing other crops.

Complainants urge that this water was unlawfully diverted by defendants from complainants' lands in violation of the contracts, at a time when their crops were suffering for want of water, and that future diversions of equal or greater amounts will prove very disastrous to their interests. The farms company urges that it is entitled under its several water right contracts to far more water than it uses because very little of the water appurtenant to its 14,000 acres of unsold lands has been actually used thereof, as nearly all of its land is uncultivated. It has been permitting nearly all its water to be turned down to complainants and other users holding similar contracts. In practice water for quarter sections mostly owned by the farms company has been delivered to irrigators with small holdings therein. The farms company has freely permitted such course by the present utility. It followed the same course before it organized defendant Kerman Water Company.

Under the contract between the canal company and the farms company, of September 15, 1908, it is expressly provided that all 214½ cubic feet of water may be used upon all or any part of the lands in the bank tract, and the contiguous 2386.77 acres. Under this contract the farms company is expressly authorized to use its water upon its lands where it wishes, but under chapter 80, Statutes of 1913, the Commission has power to limit the supply of water to consumers or lands previously supplied.

The lands under consideration were sold by the farms company while it was in control of the water situation, with the general assurance that sufficient water would be furnished by it. It was its duty to carry out the obligation so assumed. The water appurtenant to the unsold lands of the farms company had not been put to a beneficial use upon its lands prior to 1915, except in a few instances where small amounts had been used. The order will limit the service of water to lands served prior to 1915, and to those which may hereafter be expressly authorized.

In practice the *excess* water, which the canal company by contract of June 7, 1897, reserved the privilege of delivering through the canals it controls to the 34 quarter sections contiguous to the bank tract, has been delivered undivided, with the water for the bank tract, the Collins water, and the 14½ feet for the 2,386.77 acres. All the water so delivered has been distributed in common. Under the contract this *excess* water is to be so delivered that it will not interfere with the delivery of water to the bank tract. No showing was made of any necessity for delivering this excess water through the Kerman system.

As to the noxious weeds complained of, it was shown that the sand burs and cockle-burs are indigenous to the vicinity; while seeds of Bermuda grass and Johnson grass have been brought in by the water, winds and birds. They thrive and reseed by neglect of defendants and ranchers of the vicinity. There was testimony that the ditches have not been cleaned for seven years, and testimony that they have been cleaned at least annually, and some of them much oftener. Photographs showed some of the ditches in a disgraceful condition of neglect. The Commission has no jurisdiction over the ranchers. We hope, however, they will heartily co-operate with the utilities to effectively fight the common enemy. Rules on the subject for the utilities will be provided.

Neither the defendants nor the users have any storage facilities. The waters of the winter and the flood periods are permitted to run to waste, while sufficient water can not be obtained when most urgently needed to supply even the usual limited irrigation season. Many users on the bank tract have been obliged to sink wells and install pumps in an effort to save their crops or to extend their irrigated areas. Installation of storage facilities by the utilities would tend to relieve the situation and extend their area of service.

Kerman Water Company expended upon the system in maintenance and operation during 1914 the sum of \$9,996.09 and received from the farms company for its services the sum of \$3,941.00. The deficit was made up by the farms company under its contract with the Kerman Water Company. The farms company pays the water tax of 62½ cents per acre upon all of its 14,000 acres of land.

Defendants, in an effort to show what amount of water would be "sufficient to irrigate" lands in the bank tract, showed the experience of the University of California on its Kearney Farm of about 6,500 acres near the bank tract. Testimony was submitted by both sides relating to height of water table and nature of soils on both tracts. The testimony, however, was not sufficiently definite or detailed to afford much aid.

Rule 9 of the rules provided for defendant canal company and its water users by the Commission's Decision No. 1385 referred to at the beginning, relates to delivery of water by rotation, commencing at the farther end of the laterals, and to its use without waste and continuously day and night after delivery until irrigation is complete, when delivery is to be stopped. It is apparent from what has been said that the rule has been violated in letter and in spirit in the delivery and use of water upon the bank tract by the users and the utility. Said rule and the rules promulgated herein, we expect to be scrupulously complied with hereafter.

ORDER.

A public hearing having been held on the amended complaint in the above entitled case, and the Commission being now fully advised in the premises, does hereby make the following findings of fact:

(a) That defendants prior to the date of filing the amended complaint herein had failed to deliver to many of its consumers, including several of complainants, the water to which they were ratably entitled under their contracts at the places specified therein.

(b) Defendants had failed to keep portions of their canals and ditches in proper condition for the conveyance and delivery of water.

(c) Defendants have violated Rule 9 of "information, rules and regulations for Fresno Canal and Irrigation Company and its water users" established by the Commission, effective April 1, 1914, by supplemental order in Decision No. 1385, Case No. 397, in that they failed to deliver water in rotation as in said rule provided.

Basing its order on the foregoing findings of fact and on the further findings contained in the opinion which precedes this order.

It is hereby ordered as follows:

1. Defendants are hereby ordered to hereafter supply irrigation water in the amounts to which lands are ratably entitled as expressed in the opinion herein, delivered only to tracts of 160 acres or less in extent which were being irrigated in whole or in part prior to the irrigation season of 1915, and to such tracts as may hereafter be expressly authorized by the Commission in writing to receive irrigation water. The areas to be so supplied are included in the lands in said bank tract, the said 2,386.77 acres contiguous thereto, and the lands to which the five

Collins water rights are made appurtenant, all being more fully described in said contracts of March 20, 1889, June 7, 1897, and September 15, 1908; but not including the 34 quarter sections for which defendant canal company reserved the right in said contract of June 7, 1897, to convey excess water through its canals.

2. Defendants shall not hereafter supply or deliver irrigation water for or upon any of the lands referred to in paragraph 1 hereof which were not irrigated prior to the irrigation season of 1915, unless hereafter expressly authorized by the Commission in writing.

3. The 34 second-feet of water referred to in paragraph 1 of this order shall not be delivered through the canals and ditches located upon the lands referred to in above paragraph 1, at times or in a manner which will interfere with delivery of water at said lands, nor until said lands have been supplied with the amounts provided in the contracts described in the foregoing opinion.

4. Defendants are hereby ordered to place and maintain their canals and appurtenances in proper condition for the conveyance and delivery of water to the lands of irrigators and to keep them free as far as practicable from noxious weeds and vegetation; and to provide and properly instruct a sufficient number of capable employees to deliver said water upon the lands of irrigators, in proper proportion and rotation, to see that said water is so delivered, and to keep such records, that it may be determined month by month whether it is being so delivered.

5. General rules for Kerman Water Company and its water users as set forth in Exhibit "A" attached hereto and made part hereof shall be established by Kerman Water Company, effective April, 1916.

Dated at San Francisco, California, this 19th day of April, 1916.

E. N. SPAFFORD ET AL.

vs.

FRESNO CANAL AND IRRIGATION COMPANY ET AL.

EXHIBIT A.

KERMAN WATER COMPANY.

Rules and Regulations.

Rule 1. The Kerman Water Company will operate and maintain all canals and laterals and structures along the banks of the same to the extent that it may be necessary in the delivery of water to privately owned and operated ditches. Its obligation in this regard will be assumed at and below the points where water is delivered to it for distribution by the Fresno Canal and Irrigation Company. The company will provide for measurement either periodically or continuously at a sufficient number of points to assure itself and its consumers of the delivery at the land of consumers of a sufficient quantity of water to satisfy the provisions of contracts in force between consumers and Kerman Water Company or Fresno Canal and Irrigation Company.

Rule 2. When sufficient water is available to supply for the land being irrigated water at the rate of one cubic foot per second per 100 acres, at the property of each

and every consumer, rotation need not be resorted to, unless requested by one of the consumers located on a lateral incapable of carrying the full amount desired.

Rule 3. When there is any shortage of supply, water will be delivered by rotation. Along larger branch canals and laterals a supply of water proportioned to the total acreage irrigated, allowing for the determined distributary seepage loss, will be run continuously. Rotation, when resorted to, will provide the same interval and length of period for equal acreages whether located along the line of the canal or at the extremities of minor laterals. As the supply available decreases, the company will reduce mileage of canal kept wet continuously, and will endeavor to run as nearly full heads in each ditch operated as is possible, rotating between consumers on the ditch, and after all consumers on one ditch have been served, shifting entire supply to other ditches. The endeavor will be to provide a run of water with as full a head as the user can conveniently handle, and shortening the length of each run as the supply available falls off. The endeavor will be to provide water at least once per month.

Rule 4. The company will notify consumers through its ditch tenders, by mail or by posting notices at convenient and prearranged places, as far in advance of a rotation period as possible, of the time when each consumer is to begin and cease using water. Such notification shall not be less than three days before the beginning of use, except in case of emergency.

Rule 5. Records of delivery will be balanced up monthly and consumers who have not received a ratable supply in any one period, will be entitled to have that supply made good during the following period, provided such consumer has not failed to use the water when made available. The deficiency in one irrigation season due to fault of the company, will be made up in the following season, if the consumer desires.

Rule 6. Individual users on a community lateral are expected to make use of water as provided in the schedules prepared by the company. Should they fail to do so, the company will take control for the protection of any complaining consumer on the lateral; unless consumers have previously agreed to schedule. Water must be used continuously throughout the rotation period of use, unless the consumer should not need water for the full period; in which event he must promptly notify the ditch tender or some other official of the company in charge, to have delivery stopped.

Rule 7. Consumers are required by law to prevent waste of water. Detection of unwarranted waste through carelessness or improper preparation of land will warrant the company in refusing to render service.

Rule 8. By previous arrangement, one irrigator in a rotation series may exchange with another, or use during a period may be waived and the amount of water due may be delivered in a future period, should no other consumers be damaged thereby.

Rule 9. All structures on the canals and laterals operated by the Kerman Water Company are to be controlled exclusively by the company's employees. All breaks in banks and damages to company property are to be promptly repaired by the company to the end that water waste may be prevented. Ditch tenders will be fully instructed in regard to all changes to be made in the flow of water. Authority to alter flashboards or gates may be granted to irrigators in writing and in specific instances only. Persons guilty of trespassing on the premises of this company will be dealt with according to law.

Rule 10. Complaints should be lodged at the office of the company in Kerman as soon as possible after the occurrence of which complaint is made. If there is failure to reach a satisfactory agreement in any matter, the consumer or the company may appeal to the California Railroad Commission.

Rule 11. The unit of measurement of water will be the second-foot, it being one cubic foot of flow passing any point in one second of time. Gaging stations, weirs and other practicable devices will be used for continuous records of flow at all essential points and reported to the Railroad Commission. Consumers who receive water below such points will be informed in regard to such measurements upon application. Amounts of water delivered at lands of consumers may be determined by measurement at a distance, correcting for periodically determined transmission losses. Where possible, check measurements will be made at individual land holdings.

Rule 12. The ditch tenders of the company will be instructed by their superiors, and it will be their endeavor to visit each point on the system where water is running, at least once daily. Their duty is to obey their instructions, and only within pre-arranged limits can they allow deviation therefrom. Ditch tenders are under orders to report any interference by unauthorized persons with the operation of the ditch system, and all waste and misuse of water delivered.

Rule 13. The company will endeavor to keep the canals, laterals, banks and rights of way free from injurious vegetation, and will to that end co-operate with owners of land adjacent to the company rights of way.

DECISION No. 3267.

IN THE MATTER OF THE APPLICATION OF HUENEME, MALIBU AND PORT LOS ANGELES RAILWAY TO SELL PROPERTY AND OF HUENEME, MALIBU AND SOUTHERN RAILWAY TO PURCHASE PROPERTY AND ISSUE STOCK.

Application No. 2093.

Decided April 20, 1916.

REPORT OF THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Applicants having applied to the Commission for a modification of the orders herein, so that Hueneme, Malibu and Southern Railway be authorized to now issue 56 shares of its capital stock at \$100.00 per share, its par value, for which \$5,600.00 cash is now in its treasury, and to hereafter issue from time to time upon the authority of the Commission 504 shares of its capital stock of the par value of \$100.00 each at par, when said shares are paid for in cash the proceeds thereof to be used in improvements and betterments; all of said 560 shares of its capital stock having been heretofore subscribed for; said 560 shares of stock to be issued in addition to the 500 shares of stock originally authorized to be issued at par in payment for the property of the Hueneme, Malibu and Port Los Angeles Railway,

It is hereby ordered that the original order heretofore entered herein be and it is hereby amended by inserting after the second paragraph thereof the following:

It is hereby further ordered that Hueneme, Malibu and Southern Railway be and it is hereby authorized to now issue 56 shares of its capital stock of the par value of \$100.00 each, in consideration of the sum of \$5,600.00 heretofore paid in cash into its treasury, and to hereafter issue from time to time upon supplemental orders of the Commission 504 shares of its capital stock of the par value of \$100.00 each, upon payment in cash therefor at par.

It is further ordered that the first supplemental order herein be and it is hereby set aside.

This order is made upon the condition that the proceeds to be derived from the sale of the 560 shares of stock herein authorized to be issued, shall be used for such additions and betterments as shall be desired by the applicant and approved by this Commission in supplemental orders.

Dated at San Francisco, California, this 20th day of April, 1916.

DECISION No. 3268.

IN THE MATTER OF THE APPLICATION OF ARCADIA CRYSTAL WATER COMPANY FOR PERMISSION TO REMOVE CERTAIN WATER MAINS OF SAID COMPANY FROM CERTAIN OF THE PUBLIC STREETS OF THE CITY OF ARCADIA, AND TO ENTER INTO A CERTAIN AGREEMENT WITH THE SAID CITY OF ARCADIA IN CONNECTION THEREWITH.

Application No. 2184.

Decided April 21, 1916.

Arcadia Crystal Water Company authorized to abandon service and remove its pipes from the streets of the city of Arcadia, and to enter into an agreement with said city whereby the city agrees to serve the patrons of applicant at its regular rates for service, provided that the city shall assume all obligations at present resting upon the applicant for water service.

S. J. Wilson, for Applicant.

Walter F. Dunn, city attorney, for City of Arcadia.

REPORT OF THE COMMISSION.

Arcadia Crystal Water Company applies for authority to remove certain of its water mains from the streets of Arcadia and contract with the city of Arcadia to serve city water to its patrons.

Applicant is engaged in serving water from a pumping plant to about 50 domestic consumers and about 75 irrigation consumers in and about the city of Arcadia, Los Angeles County.

Most of applicant's patrons are its stockholders. All patrons who are not stockholders have signed a formal consent that the pipes be removed and service to them be discontinued. The holders of more than two-thirds of applicant's stock also unite in such a consent, and that the agreement with the city of Arcadia be executed. No stockholder or consumer offers any objection.

The pumping plant was constructed to serve 360 acres of land, and interests in the plant were purchased by those buying the lands, in proportion to their land holdings purchased. The plant is now

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owned by applicant and by land purchasers owning varying interests in it, all of whom are consumers of water but most of whom do not own stock in applicant corporation. All of the owners who are not stockholders have signed the consent above referred to.

The question arose at the hearing as to what interest, if any, is vested in Alfred L. Bartlett as receiver, appointed by the Superior Court of Los Angeles County, in the case of *C. B. Reas vs. Victor Clemence et al.*, No. B5858, involving title and possession of some of the said lands and of rights in the pumping plant. The receiver was appointed to operate the pumping plant and see that purchasers of land received water during the litigation. By authority of court he long since turned over the possession of the pumping plant to The 808 Land and Water Company, by whom it was subsequently conveyed to applicant.

The receiver has not as yet been discharged. Since the hearing the receiver has filed formal consent to removal of pipes and requests favorable action on the application. The document is accompanied by a certified copy of order of court authorizing receiver to consent to removal of pipes and to join in execution of agreement with the city.

The city of Arcadia is now completing a municipal water system, its mains paralleling those of applicant. That portion of the city system designed to serve the territory now served by applicant can be served from applicant's plant apart from the remainder of the city system.

The new rate which the city expects to establish will be approximately \$1.00 per 10,000 gallons for water served for domestic use and 1 cent per inch per hour for water served for irrigation use, a rate which its city engineer has determined after careful investigation will produce to the city an adequate return, after allowing for interest on bonds, depreciation and other charges. Applicant's rates are \$1.50 per 10,000 gallons and from 2 to 3 cents per miner's inch per hour, depending upon fluctuating cost.

The city having issued bonds for extensive street improvement is now engaged in improving streets under which applicant's mains are laid. The grades of these streets are to be lowered to a point below applicant's mains. The cost of lowering the mains it estimates at \$3,000.00. It feels that it can not serve water at the proposed new city rates and that it can not well finance the lowering of its mains. Its patrons and stockholders therefore wish the city service, but some of them have requested the officers of applicant to arrange that applicant's pumping plant be retained ready for service until the efficiency of the new city system is proven. The application is the result of a compromise with the city upon the question of the power of the city to compel the lowering of the mains.

An agreement has been entered into between the applicant and the city of Arcadia, dated March 2, 1916, made subject to the approval of this Commission and two-thirds of applicant's stockholders, providing that applicant shall remove its mains at its own expense and that the city's system shall be laid in applicant's territory in such manner that that portion of the city's system can be isolated from the remainder of the city's system and served direct from applicant's plant, and that in case of need it may be so served. It also provides that applicant's consumers shall be served with water at the regular rates established by the city.

ORDER.

Arcadia Crystal Water Company having applied to the Railroad Commission for authority to remove its water mains from the public streets of Arcadia and abandon service, and to enter into agreement with the city of Arcadia providing for service to applicant's patrons, and a public hearing having been held thereon, and it appearing that applicant's patrons will probably receive a lower rate from the city than they have received from applicant, and most of applicant's patrons having consented in writing to said removal of pipes, the said patrons so consenting including all of applicant's patrons who are not holders of stock, and it appearing to be for the public interest that the application should be granted,

It is hereby ordered that Arcadia Crystal Water Company, a corporation, be and it is hereby authorized and empowered to remove from the public streets of the city of Arcadia all of its water mains, pipes or conduits laid therein, and to abandon service to its patrons as soon as said patrons are adequately served with water by the city of Arcadia, and the Commission does hereby approve its action in entering into contract with the city of Arcadia under date of March 2, 1916, in the form of contract attached to the application, said city agreeing in said contract to serve domestic and irrigation water from the municipal water system of said city to patrons of applicant at the regular schedule of rates to be established for service of water to the inhabitants of Arcadia and vicinity.

The authority hereby granted is upon the following conditions:

1. City of Arcadia shall assume and discharge all of the obligations now resting by law upon applicant, and shall within twenty days after the date hereof file an instrument in writing with the Commission, in form approved by the Commission, assuming said obligations.
2. Applicant's pumping plant shall be kept intact in condition to promptly and adequately serve water to its present patrons through that portion of the system of said city which will convey water to applicant's patrons, for a period of six months after the date hereof.

3. The authority hereby granted to remove said pipes and mains shall extend only to such parts thereof as are removed within sixty days after the date hereof.

Dated at San Francisco, California, this 21st day of April, 1916.

DECISION No. 3269.

IN THE MATTER OF THE APPLICATION OF OCEAN PARK WATER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF FIVE THOUSAND DOLLARS.

Application No. 2211.

Decided April 21, 1916.

Applicant authorized to issue \$5,000.00 face value of bonds to be sold at not less than \$7½, proceeds to be used for the purpose of taking up a mortgage on its pumping plant and reimbursing its treasury for money expended for capital purposes.

E. J. Vawter, Jr., for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is an application for an order authorizing the issue of bonds of Ocean Park Water Company of the face value of \$5,000.00, secured by deed of trust or mortgage to Title Guarantee and Trust Company of Los Angeles.

Petitioner is engaged in selling water for domestic and other purposes in portions of Santa Monica and Venice. It has an authorized issue of capital stock of the aggregate par value of \$100,000.00, all issued. It has an authorized issue of first mortgage bonds of the face value of \$100,000.00, payable on July 1, 1946, and bearing interest at the rate of 6 per cent per annum. Of the bonds so authorized, bonds of the face value of \$50,000.00 have been issued. Petitioner owes \$3,000.00, payable April 23, 1916, on a purchase money mortgage on its Rose street pumping plant, about \$500.00 on current expenses and \$130.00 on accrued taxes. Reference is hereby made for a general discussion of this company's property and business to this Commission's Decision No. 2549, in Application No. 1561 (Vol. 7, Opinions and Orders of the Railroad Commission of California, p. 473), in which proceeding this Commission found that the value of the company's property for the purpose of acquisition by the city of Santa Monica was \$77,500.00.

Petitioner now desires to sell five bonds, of the face value of \$1,000.00 each, at not less than 87½ per cent of face value, and to use the proceeds as follows:

To take up purchase money mortgage on Rose street pumping plant -----	\$3,000 00
To reimburse the treasury for moneys expended in 1915 from income for capital account -----	1,375 00
	<hr/>
	\$4,375 00

The Rose street pumping plant mortgage now bears interest at the rate of 8 per cent per annum. During 1915, petitioner expended from income \$2,300.47 on permanent improvements, consisting principally of 107 meters installed under order of this Commission at a cost of \$1,086.05, and a 6-inch pipe line on Strand street in Santa Monica. If petitioner sells the bonds for which authority is now requested, it will be able to meet certain current expenses and also install over 70 additional meters. Petitioner now has a waiting list of over 50 consumers who have asked for the installation of meters under this Commission's order in Case No. 703, *Shelley vs. Ocean Park Water Company* (Vol. 7, Opinions and Orders of the Railroad Commission of California, p. 431).

If petitioner finds it desirable to do so, it may hereafter apply for authority to hypothecate these five bonds to secure the payment of promissory notes for the purposes herein specified, if it finds such procedure more advantageous than the sale of the bonds.

I submit the following form of order:

ORDER.

Ocean Park Water Company having applied for an order authorizing the issue of five of its 6 per cent bonds of the face value of \$1,000.00 each, being bonds numbered 51 to 55, inclusive, secured by deed of trust or mortgage to Title Guarantee and Trust Company, for the purposes hereinafter specified, and a public hearing having been held on said application, and the Railroad Commission finding that the purposes for which the proceeds of said bonds are to be used are not, in whole or in part, reasonably chargeable to operating expenses or to income,

It is hereby ordered that Ocean Park Water Company be and the same is hereby authorized to issue five of its 6 per cent first mortgage bonds of the face value of \$1,000.00 each, being bonds numbered 51 to 55, inclusive, secured by deed of trust or mortgage to Title Guarantee and Trust Company of Los Angeles, on the following conditions and not otherwise, to wit:

1. Ocean Park Water Company shall sell said bonds so as to net not less than 87½ per cent of their face value, plus accrued interest.

2. Ocean Park Water Company shall use the proceeds from the sale of said bonds only for the following purposes:

(a) To take up purchase money mortgage on Rose street pumping plant, not to exceed \$3,000.00.

(b) To reimburse Ocean Park Water Company for moneys actually expended from income in 1915 for the purposes specified in the opinion which precedes this order, not to exceed \$1,375.00.

3. Ocean Park Water Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted shall not become effective until Ocean Park Water Company has paid the fee specified in the Public Utilities Act.

5. The authority hereby granted shall apply only to such bonds as shall be issued prior to October 1, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of April, 1916.

DECISION No. 3270.

IN THE MATTER OF THE APPLICATION OF E. POWERS, DOING BUSINESS UNDER THE NAME AND STYLE OF MANTECA TELEPHONE AND TELEGRAPH COMPANY, FOR PERMISSION TO INCREASE TELEPHONE RATES.

Application No. 2124.

Decided April 21, 1916.

Applicant granted permission to increase its two-party line telephone rate from \$1.25 to \$1.50 per month, and at the same time to establish a four-party line service at \$1.25 per month.

REPORT OF THE COMMISSION.

This is an application on behalf of E. Powers, doing business under the name and style of Manteca Telephone and Telegraph Company, in the town of Manteca and its immediate vicinity in San Joaquin

County, for authority to increase his switching rates for two-party line service from \$1.25 per month to \$1.50 per month.

A public hearing was held in Manteca on April 12, 1916. From the evidence it appears that applicant's present schedule provides for an eight-party line switching service for \$1.00 per month and a two-party line service for \$1.25 per month, and he will, if this application is granted, establish a four-party line service at the rate of \$1.25 per month, so that the effect of granting the application would be to require the patrons of applicant who now have a two-party service either to take a four-party service or else to pay 25 cents per month additional for each two-party service.

Applicant submitted a statement showing the operating revenues for the last year from all sources as \$1,904.39. He also submitted a statement of his operating expenses for the same period. The statement as amended and corrected by applicant at the hearing, and allowing applicant a salary of \$25.00 per month as manager, is as follows:

Operators (two)	\$540 00
Bookkeeper and relief operator	360 00
Lineman	445 10
Taxes	65 92
Rent	120 00
Manager	300 00
Total	<hr/> \$1,831 02

The exchange is kept open day and night, and while the bookkeeper and the manager spend only a portion of their time on telephone work, we consider their salary allowances reasonable. The above operating expenses make no allowance for either interest or depreciation upon the telephone property. Applicant has submitted a statement of the original cost new of the property used and useful in his telephone business as \$2,671.15.

Under all the circumstances of this case, including the fact that of applicant's 101 present subscribers only two will be affected by the proposed change of rates, we feel that the application should be granted.

ORDER.

E. Powers, doing business under the name and style of Manteca Telephone and Telegraph Company, having applied to this Commission for an order authorizing him to increase the monthly switching rate on two-party line service from \$1.25 to \$1.50, and a public hearing having been held, and the application having been submitted, we hereby find as a fact that the rates hereinafter authorized are just and reasonable.

Basing our conclusion upon the foregoing finding of fact and upon the further findings of fact contained in the opinion which precedes this order,

It is hereby ordered that applicant be and he is hereby authorized to place in effect and file with this Commission and thereafter, until otherwise ordered by this Commission, charge subscribers the following rates, to become effective May 1, 1916:

Switching charge for two-party service-----	\$1 50 per month
Switching charge for four-party service-----	1 25 per month

The authority herein granted is granted subject to the condition that applicant shall, within thirty (30) days from the date of this order, file with this Commission a complete schedule of rates as revised in accordance with this order.

Dated at San Francisco, California, this 21st day of April, 1916.

DECISION No. 3271.

IN THE MATTER OF THE APPLICATION OF A. C. H. SCHMIDT FOR
AUTHORITY TO INCREASE RATES FOR THE STORAGE OF GRAIN.

Application No. 2168.

Decided April 21, 1916.

Applicant, operating a warehouse at Oswald, Sutter County, applies for, and upon a showing that his present income is insufficient, is authorized to increase rates for the storage of grain from 75 cents to \$1.00 per ton per season, providing applicant shall do all resacking, weighing, piling, etc., at his own expense.

REPORT OF THE COMMISSION.

This is an application by A. C. H. Schmidt, who operates a warehouse at Oswald, Sutter County, for authority to increase rates for the storage of grain from 75 cents per ton to \$1.00 per ton per season, upon which a public hearing was held in Oswald on April 17, 1916.

Rates filed with the Commission by applicant's predecessor for warehousing grain are as follows:

Storage—To January 1st -----	50 cents per ton.
For season -----	75 cents per ton.
Loading through warehouse -----	35 cents per ton.
Weighing -----	25 cents per draft.

The evidence indicated, however, that the seasonal rate of 75 cents per ton, to cover storage to June 1st, is the only grain rate which has been applied during the past few years. The warehouse operated by applicant is constructed in two sections, each 141 feet long by 40 feet wide. The frame of the building is of wood, while the walls and roof are of corrugated galvanized iron. Part of the floor is of concrete, the remainder being of wood. The building is situated on a lot 170 feet square, adjoining the tracks of the Southern Pacific Company. The

building and lot are owned by W. T. Ellis of Marysville, and are leased to applicant at an annual rental of \$300.00. An examination of the property was made by E. P. McAuliffe, one of the Commission's assistant engineers, who estimated the cost of the premises as follows:

	Reproduction cost	Depreciation	Reproduction cost less depreciation
Land	\$300 00		\$300 00
Warehouse building	7,250 00	\$1,812 50	5,437 50
Totals	\$7,550 00	\$1,812 50	\$5,737 50

The evidence further shows that in an effort to utilize all the space possible last season, grain was, in some cases, piled as high as thirty-two sacks, reaching almost to the roof, and that consequently in a number of places the trusses and rafters have been cracked and broken. In this way the roof has been weakened to such an extent that it would now be in danger of falling if subjected to any undue strain. This matter was called to applicant's attention and he has promised that he will repair all the rafters and trusses without unnecessary delay.

It further appears that there has been stored in applicant's warehouse during the last three years an average of approximately 1,500 tons per year, resulting in an average annual income of approximately \$1,125.00.

Applicant testified as to his approximate expenses last year which, exclusive of any allowance for rent or for interest upon the value of the warehouse property, were as follows:

Paid for labor in receiving, resacking and discharging grain ----	\$600 00
Use of horse in stacking grain	100 00
Sacks furnished in resacking grain	100 00
Books and repairs	20 00
Allowance for applicant's own work	200 00
Total	\$1,020 00

Applicant further testified that hereafter the weighing of the grain would cost him annually \$100.00 in addition to all the other items above set forth. Applicant further stated that for three months of the harvesting season he spends practically all of his time on warehouse work, and that during the rest of the year he is always within call of any customer who wishes to remove any of his grain. Under these conditions we consider applicant's allowance for his own services to be decidedly reasonable. As applicant is apparently giving good service to his customers, under all the circumstances of this case we feel that the increase requested should be authorized.

ORDER.

A. C. H. Schmidt, operating a warehouse in Oswald, Sutter County, having applied to this Commission for an order authorizing an increase

in rates for the storage of grain as set forth in the foregoing opinion, and a public hearing having been held upon said application, and the same having been submitted, and being now ready for decision, we hereby find as a fact that the existing rate is noncompensatory and unreasonable and that the rate hereinafter authorized is just and reasonable.

Basing our conclusion upon the foregoing findings of fact and upon the further findings contained in the opinion which precedes this order,

It is hereby ordered that applicant be and he is hereby authorized to establish and collect for the storage of grain the price of \$1.00 per ton per season, ending June 1st of each year.

It is hereby further ordered that the collection of this rate shall be conditioned upon the rendering of first-class service as heretofore given, such as receiving, weighing, piling, carrying in storage and such other service as it is customary for warehousemen similarly situated to give, and in addition thereto, all ordinary resacking, including the furnishing of sacks or otherwise placing the grain in proper condition for shipment.

It is hereby further ordered that the rates herein authorized shall not become effective earlier than June 1, 1916, and not until applicant has filed with this Commission the tariff carrying the new rates; said tariff to be filed within thirty (30) days from the date of this order.

Dated at San Francisco, California, this 21st day of April, 1916.

DECISION No. 3272.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY, W. H. HOLABIRD, AS COMMISSIONER AT FORECLOSURE SALE, AND NEW LIVERPOOL SALT COMPANY FOR APPROVAL OF TRANSFER OF PROPERTIES OF CALIFORNIA DEVELOPMENT COMPANY TO SOUTHERN PACIFIC COMPANY, AND OF AN AGREEMENT BETWEEN SOUTHERN PACIFIC COMPANY AND NEW LIVERPOOL SALT COMPANY RELATIVE TO THEIR RESPECTIVE INTERESTS IN SAID PROPERTIES.

Application No. 2151.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY AND IMPERIAL IRRIGATION DISTRICT FOR APPROVAL OF AGREEMENT PROVIDING FOR THE SALE OF A CERTAIN IRRIGATION SYSTEM TO IMPERIAL IRRIGATION DISTRICT.

Application No. 2152.

Decided April 21, 1916.

Applicants petition for authorization to transfer the irrigation system of California Development Company to Southern Pacific Company for the sum of \$3,875,000.00, the Southern Pacific Company thereafter to transfer all of such properties used and useful in the irrigation business to the Imperial Irrigation

District in consideration of the issuance and delivery of \$3,000,000.00 in bonds of the district, the Southern Pacific Company to retain all other properties, principally lands. The creditors of California Development Company to be paid from the bonds received by and the property retained by the Southern Pacific Company.

Dos Palmos Mutual Water Company petitions that authorization for this transfer be withheld pending the construction of a canal to serve the Dos Palmos system with water, and it appearing that the latter system made no attempt whatever to be included within the bounds of the irrigation district, nor has it ever received water from the California company, no consideration can be given to such protest.

Applications granted, provided that there shall first be filed with the Commission a stipulation to the effect that the irrigation district agrees to take over such system subject to all valid existing claims for water now resting against the property.

Guy V. Shoup, for Southern Pacific Company, New Liverpool Salt Company and Imperial Valley Irrigation District.

W. H. Wadsworth, for *W. H. Holabird*, as commissioner.

Alfred Kohlberg and *S. W. Hudson*, for Dos Palmos Mutual Water Company.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

In the above entitled proceedings the Railroad Commission is asked to make an order authorizing the transfer from the California Development Company to the Southern Pacific Company and from the Southern Pacific Company to a public irrigation district known as Imperial Irrigation District, of the irrigation system in Imperial County, California, formerly known as the California Development Company system, together with certain other property, as will appear hereinafter in greater detail. A public hearing on these applications was held in Los Angeles on April 7, 1916, at which time the applications were, by stipulation of all parties, consolidated for hearing and decision.

The petition in Application No. 2151 alleges, in effect, that on December 27, 1915, at a sale held by *W. H. Holabird* as commissioner in foreclosure in the action known as *Title Insurance and Trust Company vs. California Development Company et al.*, the property described in Exhibit "A," attached to the petition (being substantially the property theretofore owned or controlled by California Development Company), was sold to Southern Pacific Company for \$3,875,000.00; that this sale was confirmed by the superior court of California in and for the county of Los Angeles, being the court in which said action was pending, and that thereafter, on February 23, 1916, under order of said court, said *Holabird*, as such commissioner, executed and delivered to Southern Pacific Company an indenture conveying said property to Southern Pacific Company; that on or about December 20, 1915, New Liverpool

Salt Company, a judgment creditor of California Development Company, entered into an agreement with Southern Pacific Company by which New Liverpool Salt Company transferred to Southern Pacific Company its judgment against California Development Company for the sum of \$458,246.23, with interest thereon from January 10, 1908, and Southern Pacific Company agreed that if it should acquire said property at foreclosure sale, it would try to sell to Imperial Irrigation District for the sum of \$3,000,000.00, with interest, those portions of said property which are used and useful in the operation of the irrigation system formerly owned by California Development Company, whereupon Southern Pacific Company would make certain payments to New Liverpool Salt Company; that under said agreement between Southern Pacific Company and New Liverpool Salt Company, in the event that Southern Pacific Company should not be successful in effecting such sale to Imperial Irrigation District, said companies were to be owners in common of all the property bought by the Southern Pacific Company at said foreclosure sale, in the proportion of four-fifths to the Southern Pacific Company and one-fifth to the New Liverpool Salt Company; and that a copy of the agreement between Southern Pacific Company and New Liverpool Salt Company is attached to the petition and marked Exhibit "D."

The petition further alleges that the question whether California Development Company was a public utility, and whether Southern Pacific Company, as its successor in the ownership of the property, would be a public utility with reference to said property, is in dispute, and has not been finally determined by the courts, and that it is accordingly desirable to secure from the Railroad Commission an order approving and ratifying the sale and conveyance of said property to the Southern Pacific Company and an order approving and ratifying the agreement between Southern Pacific Company and New Liverpool Salt Company. The petition asks that such orders be made.

The petition in Application No. 2152 alleges, in effect, that Southern Pacific Company is a common carrier corporation, organized under the laws of Kentucky, and that Imperial Irrigation District is a public irrigation district, organized under the laws of California for the purpose of supplying water to the people within its boundaries in Imperial County, California; that the lands within the boundaries of said irrigation district are dependent upon irrigation in order to make them valuable for agricultural and horticultural purposes; that prior to February 23, 1916, said lands were supplied with water through an irrigation system owned or controlled by California Development Company, but that during the last seven years, as the result of litigation, the property has been operated by W. H. Holabird as receiver, that said

property was sold on February 8, 1916, on foreclosure sale, to Southern Pacific Company for \$3,875,000.00, and that a conveyance thereof was thereafter duly executed and delivered, under order of the superior court, to Southern Pacific Company; that in anticipation of such sale and purchase at foreclosure sale, Southern Pacific Company and Imperial Irrigation District on December 28, 1915, entered into an agreement providing that in consideration of the receipt by Southern Pacific Company from Imperial Irrigation District of valid bonds of said irrigation district of the face value of \$3,000,000.00, with interest, Southern Pacific Company would convey to Imperial Irrigation District the canal system of California Development Company with appurtenances and all its right in the capital stock of two Mexican corporations owning or controlling canals, franchises, lands and other property in Mexico, excepting that Southern Pacific Company would reserve from such conveyance certain property and property rights, all of which is fully set forth in said agreement of December 28, 1915, a copy whereof is attached to the petition and marked Exhibit "A"; that the Imperial Irrigation District has duly authorized the issue of bonds of the face value of \$3,500,000.00, whereof bonds of the face value of \$3,000,000.00 were on February 10, 1916, awarded to Southern Pacific Company as the highest and best bidder; and that the terms and conditions of the agreement of December 28, 1915, are fair and reasonable and provide the most practicable, economical and expeditious means by which the people within the boundaries of Imperial Irrigation District may themselves own and operate the irrigation system upon which they are all dependent.

The petition contains allegations similar to the allegations of the petition in Application No. 2151 with reference to the desirability of securing an order from the Railroad Commission, and asks that the Railroad Commission make its order ratifying and approving the agreement of December 28, 1915.

For a detailed account of the irrigation system of California Development Company and its history, reference is hereby made to the decision of the Supreme Court of this State in *Title Insurance and Trust Company vs. California Development Company et al.*, 50 Cal. Dec. 381, and to the decision of the Railroad Commission in *Becker vs. Holabird, receiver*, Vol. 5, Opinions and Orders of the Railroad Commission of California, 153. By chapter 172 of the Statutes of 1915 (St. 1915, p. 343), the legislature of California specifically authorized Imperial Irrigation District to acquire, either by condemnation or by purchase, the property of California Development Company.

In *Becker vs. Holabird, receiver, supra*, the Railroad Commission held that the irrigation system of California Development Company is a public utility water system and is subject to the jurisdiction of the

Railroad Commission. The present applications are made under section 51 of the Public Utilities Act, which provides in part that no utility of the classes therein specified, including water utilities, "shall henceforth sell, lease, assign, mortgage or otherwise dispose of or encumber the whole or any part of its * * * plant or system, necessary or useful in the performance of its duties to the public * * * without having first secured from the Commission an order authorizing it so to do." It is provided that "every such sale, lease, assignment, mortgage, disposition, encumbrance, merger or consolidation made otherwise than in accordance with the order of the Commission authorizing the same shall be void."

The conveyances and agreements referred to in the petitions herein are the result of protracted negotiations at arm's length between all interested parties, conducted with a view to terminating the litigation in which this irrigation system has been involved during the last seven years and to the acquisition and operation by the people of the Imperial Valley of the irrigation system on which their prosperity so vitally depends.

Without pausing to refer to all the details, the plans now agreed upon contemplate that Southern Pacific Company shall acquire for \$3,875,000.00 the entire property of California Development Company, including the property in Mexico owned or controlled through the ownership of the stock of two Mexican corporations; that Southern Pacific Company shall then convey to Imperial Irrigation District for \$3,000,000.00 in valid bonds of the irrigation district all the property of California Development Company which is used and useful in its irrigation business; that Southern Pacific Company shall retain the property of California Development Company which is not used and useful in its irrigation business, being principally lands in Mexico; and that the creditors of California Development Company shall be paid from said \$3,000,000.00 in bonds and the property to be retained by the Southern Pacific Company.

I have given careful consideration to the various agreements which have been entered into and believe that they are fair and that the public interest requires that this Commission make its order in so far as necessary to enable the parties to consummate the proposed plan. While there is no satisfactory evidence with reference to the amount of money which has been invested in this irrigation system or of the estimated cost to reproduce it, if this could be done, an examination of the evidence as to the revenues and expenses reasonably to be anticipated if the irrigation district should pay \$3,000,000.00 face value of 5 per cent bonds for this system convinces me that in the absence of some unexpected development, the irrigation district will be able to meet all expenses, including interest on the investment, operating

expenses and depreciation without increasing the present rates for water. Representatives of the irrigation district testified that in their opinion, based on a study of existing conditions and of additional business reasonably to be anticipated, the district will be able in the not distant future, to decrease the rates for water now in effect.

Representatives of Dos Palms Mutual Water Company appeared at the hearing to request that the approval of the transfers herein referred to be withheld until an extension of canals to serve their land should have been made or that the construction of such extension be made a condition of the order. The lands of this water company are located outside the boundaries of Imperial Irrigation District north and west of the end of the East High Line Canal, and have an area of sixty or seventy thousand acres. This water company made no effort to have its lands included within the Imperial Irrigation District either when the irrigation district was formed or when the boundaries were extended in October, 1915. The testimony shows that the canals of California Development Company are located more than forty miles distant from these lands, and that the main canal of Irrigation Company No. 5, being the nearest mutual water company, is too small to serve this additional acreage. Under these circumstances I am unwilling to recommend that the contemplated transfers be delayed or that the irrigation district shall take the irrigation system with a condition which might be very burdensome. I consider it more equitable to leave the parties free to deal with one another after the new owner, the Imperial Irrigation District, has acquired the irrigation system of the California Development Company.

The testimony shows that certain lands which have been regularly irrigated from the water system of California Development Company are outside the boundaries of the Imperial Irrigation District. The irrigation district will accordingly be expected, as a condition to the order, to file the usual stipulation in such cases, that it agrees to take the irrigation system subject to all valid existing claims for water against the system.

The Railroad Commission's consent to the transfers and agreements hereinbefore referred to will, of course, be applicable only in so far as necessary.

I submit the following form of order:

ORDER.

A public hearing having been held in the above entitled proceedings, and the same having been submitted,

It is ordered as follows:

1. California Development Company and W. H. Holabird as commissioner under foreclosure sale, in the case of *Title Insurance and*

Trust Company vs. California Development Company, are hereby authorized to sell and convey to Southern Pacific Company for the sum of \$3,875,000.00 the irrigation system of California Development Company and the other property more particularly described in Exhibit "A," which is attached to and made a part of this order.

2. Southern Pacific Company is hereby authorized to enter into an agreement with New Liverpool Salt Company in substantially the form of Exhibit "D" attached to the petition in Application No. 2151.

3. Southern Pacific Company is hereby authorized to sell and convey to Imperial Irrigation District for the sum of \$3,000,000.00 the property used and useful in the maintenance and operation of the irrigation system of California Development Company and the other property more particularly described in Exhibit "B," which is attached to and made a part of this order, on the following condition:

(a) Before the authority in this paragraph conferred shall become effective, Southern Pacific Company shall secure from Imperial Irrigation District and shall file with the Railroad Commission a duly authorized stipulation from the board of directors of Imperial Irrigation District that the district takes the property to be conveyed to it by Southern Pacific Company, subject to all valid existing claims for water against said property.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of April, 1916.

EXHIBIT "A."

1. The entire capital stock, consisting of 12,500 shares of the *La Sociedad de Irrigacion y Terrenos de la Baja California (Sociedad Anonima)*, known as the Mexican Company; also all of the stock of the *Compania de Terrenos y Aguas de la Baja California*, otherwise known as the New Mexican Company.

2. The following real estate situated in the State of California, county of Imperial, owned by the California Development Company.

Andrade.

All those certain lots, pieces and parcels of land adjoining the Colorado River and known as the Hanlon Heading, and lying and being in the county of Imperial, State of California, United States of America, and bounded and particularly described as follows:

Lots 4, 5 and 6 in Sec. 25, T. 16 S., R. 21 E.; W. $\frac{1}{4}$ of S.W. $\frac{1}{4}$ in Sec. 25, T. 16 S., R. 21 E.; S.E. $\frac{1}{4}$ of S.E. $\frac{1}{4}$ in Sec. 26, T. 16 S., R. 21 E.; lots 1, 2, 3 and 4 in Sec. 36, T. 16 S., R. 21 E.; lots 1, 3, 4, 5, Sec. 35, T. 16 S., R. 21 E.; N.E. $\frac{1}{4}$ of Sec. 35, T. 16 S., R. 21 E.; N.W. $\frac{1}{4}$ of S.E. $\frac{1}{4}$ of Sec. 35, T. 16 S., R. 21 E.; N.E. $\frac{1}{4}$ of S.W. $\frac{1}{4}$ in Sec. 35, T. 16 S., R. 21 E., S. B. M., containing 554.93 acres, more or less, according to the United States government survey, together with all easements, appurtenant to said land, the water rights, franchises, water heading and appropriated water rights in the Colorado River owned by said California Development Company.

Calexico.

Lot 13, block 72, Calexico townsite; fractional lots 13, 14, 15, 16, 17, 18 and 19, block 68, Calexico townsite;

A triangular piece of land located south of the right of way of the Inter-California Railroad, north of the United States-Mexico international boundary line and east of lot 13, being a portion of lots 7, 8, 9, 10, 11 and 12, block 72, Calexico townsite.

Miscellaneous.

A parcel of land containing .80 acre and lying in Tract No. 67, T. 16 S., R. 16 E., S. B. M., Gov. resurvey;

A parcel of land containing 7.59 acres and lying in Tract 88, T. 16 S., R. 16 E., S. B. M., Gov. resurvey;

A parcel of land containing 7.77 acres and lying in Tract 89, T. 16 S., R. 16 E., S. B. M., Gov. resurvey;

A parcel of land containing 1.68 acres and lying in the S.W. $\frac{1}{4}$ of Sec. 1, T. 17 S., R. 14 E., S. B. M.;

A parcel of land containing 43.45 acres and lying in Secs. 28 and 29, T. 15 S., R. 15 E., S. B. M., Gov. resurvey;

A parcel of land containing 16.23 acres and lying in lot 14, of Sec. 28, T. 15 S., R. 15 E., S. B. M., Gov. resurvey;

A parcel of land containing 7.5 acres lying in Secs. 20 and 29, T. 15 S., R. 15 E., S. B. M., Gov. resurvey;

A parcel of land containing .33 acre and lying in Sec. 28, T. 15 S., R. 15 E., S. B. M., Gov. resurvey;

A parcel of land containing 7.15 acres and lying in Sec. 28, T. 15 S., R. 15 E., S. B. M., Gov. resurvey;

A parcel of land containing 7.7 acres and lying in Sec. 16, T. 17 S., R. 15 E., S. B. M., Gov. resurvey;

A parcel of land containing .95 acre and lying in Tract 53, T. 17 S., R. 15 E., S. B. M., Gov. resurvey;

A parcel of land containing 2.38 acres and lying in Tract 42, T. 17 S., R. 15 E., S. B. M., Gov. resurvey;

A parcel of land containing 2.95 acres and lying in Tract 53, T. 17 S., R. 15 E., S. B. M., Gov. resurvey;

A parcel of land containing 29.38 acres and lying in Sec. 16, T. 17 S., R. 15 E., S. B. M., Gov. resurvey (deed reads 29.38 acres; according to description should read 20.48 acres);

A parcel of land containing 3.72 acres and lying in Tract 39, T. 16 S., R. 13 E., S. B. M., Gov. resurvey;

A parcel of land containing 8.985 acres and lying in Sec. 31, T. 16 S., R. 14 E., S. B. M., Imperial Land Company survey;

A parcel of land containing 14.76 acres and lying in Sec. 36, T. 16 S., R. 13 E., S. B. M., Imperial Land Company survey;

A parcel of land containing 8.22 acres and lying in Sec. 31, T. 16 S., R. 14 E., S. B. M., Imperial Land Company survey;

A parcel of land containing 4.54 acres and lying within the N.E. $\frac{1}{4}$ of Sec. 1, T. 17 S., R. 13 E., S. B. M.;

A parcel of land containing 2.67 acres and lying within Tract 42 of Sec. 36, T. 16 S., R. 13 E., S. B. M.;

A strip of land 20 feet wide in the W. $\frac{1}{2}$ of the N.W. $\frac{1}{4}$ of Sec. 21, and in lot No. 1 of Sec. 21, T. 16 S., R. 12 E., S. B. M.;

A strip of land 30 feet wide lying within the S. $\frac{1}{2}$ of the S.E. $\frac{1}{4}$ of Sec. 17, and the N. $\frac{1}{2}$ of the N.E. $\frac{1}{4}$ of Sec. 20, T. 16 S., R. 12 E., S. B. M.;

A strip of land 60 feet wide lying within the N. $\frac{1}{2}$ of the S.E. $\frac{1}{4}$ of Sec. 20, T. 16 S., R. 12 E.; also a strip of land 40 feet wide lying within the N.E. $\frac{1}{4}$ of the S.E. $\frac{1}{4}$, and the S.E. $\frac{1}{4}$ of the N.E. $\frac{1}{4}$ of Sec. 20, T. 16 S., R. 12 E., S. B. M.;

A strip of land 20 feet in width lying within the N.W. $\frac{1}{4}$ of the S.W. $\frac{1}{4}$ of Sec. 21, T. 16 S., R. 12 E., S. B. M.;

A strip of land varying in width from 50 feet to 100 feet, across lots 1, 2, 3, 4 and 5, located in Sec. 16, T. 16 S., R. 12 E., S. B. M.;

A parcel of land 60 feet by 60 feet, located where the Ash Canal crosses the international boundary line, being situate in T. 17 S., R. 15 E., S. B. M.;

A parcel of land containing 3.5 acres and lying in lot 12 of Sec. 16, T. 17 S., R. 16 E., S. B. M., Gov. resurvey.

3. The following canals and canal structures situated in the county of Imperial, State of California, and constituting parts of the canal system of said California Development Company:

Canals.

Intake.

Length 0.38 miles, from river to concrete gate and 0.21 miles from concrete gate to international boundary line.

East Side Main Canal.

Length 8 miles.

Central Main Canal.

Length 26 miles.

West Side Main Canal.

Length 21 miles.

West Side Drain Ditch.

Length 2 miles.

Briar Main Canal.

Length 2.54 miles.

Rositas Canal.

Length 0.95 miles.

Dahlia Wasteway Canal.

Length 1.08 miles.

Canal Structures.

Main Canal.

Hanlon headgate, including bridge over same—concrete.

Bulkhead below same—concrete.

Calerico.

Concrete rating flume.

Boundary wasteway—concrete.

East Side Main Canal.

Allison heading, including—

East High Line headgate—metering flume and wagon bridge.

Imperial East Side headgate.

I. W. Co. No. 2 headgate, metering flume and wagon bridge.

Hemlock headgate, metering flume and wagon bridge.

East Side Main headgate.

Imperial Water Co. No. 7 headgate—metering flume.

Imperial Water Co. No. 5 heading, including—

I. W. Co. No. 5 headgate and metering flume.

Holton Power Co. headgate.

Holt North headgate.

Holt South headgate.

Holt City Canal:

Concrete foundation for Venturi meter (the meter which is installed is owned by the Builders' Iron Foundry of Providence, R. I.).

Rositas Canal.

Rositas concrete wasteway.

Rositas concrete heading.

Rositas double $4\frac{1}{2}$ ft. drop.

*Central Main Canal.***Briar Canal:**

- Boundary canal headgate—concrete.
- Briar Nos. 1 and 2 headgates—concrete.
- Birch check and headgate—concrete.
- Briar Nos 3, 4 and 5 headgates—concrete.
- Briar No. 6 check and headgate—concrete.
- Briar flume, check and waste.
- Beech and Beechside headgates.
- Alder headgates.
- Acacia and Acacia Side Nos. 1 and 2 headgates.

Double Weir check and automatic gate.

Dogwood headgates.

Date headgates.

Date side headgates Nos. 1 and 2.

George headgate—concrete.

Dahlia heading:

- Dahlia headgate.
- Evergreen headgate.
- Brawley main check.
- Central main check.
- Barley headgate.
- Dahlia wasteway, including automatic gate and wagon bridge.
- Dahlia wasteway intake and drop structures Nos 1 and 2.
- Foster headgate.
- Five gates, including—
- Eucalyptus headgate.
- Elder headgate.
- Rice headgate.
- Acorn headgate.
- Waterway into Brawley main.

Daisy headgate and side delivery.

Sixteen-foot drop—automatic gate.

New side heading, including—

- New side check—concrete.
- New side deliveries Nos. 1 and 2—concrete.
- Dandelion headgate—concrete.

Lilac and Lilac No. 1 headgates.

Lavender and Lavender No. 1 headgates.

Old No. 8 East headgate.

Old No. 8 West headgate.

No. 4 heading and bridge.

West Side Main Canal.

Fern headgate.

Fuchsia headgate.

Foxglove heading, including—

- Foxglove check—masonry.
- Foxglove Nos. 1 and 2 deliveries—masonry.

West Side drain headgate.

West Side drain wagon bridges (2).

West Side drain Foxglove culvert.

Also all canals, ditches, headworks, dams, structures and appurtenances of every kind and nature whatsoever, constituting any part of a canal system of the California Development Company in the county of Imperial, State of California.

4. The following buildings, wagon sheds, barns and other buildings situated in the said county of Imperial, State of California, owned by the California Development Company or in the possession of the receiver, viz :

Situated at Andrade.

Superintendent's office and living quarters.
Wood storage.
Commissary and dining quarters.
Power house.
Motor car and watchman's quarters.
Machine and blacksmith shop.
Oil pumping plant.
Fuel oil reservoir (concrete).
Oil house.
Tool house No. 1.
Storehouse No. 1.
Storehouse No. 2.
Lumber shed.
Powder magazine.
Water and oil tanks—elevated.
El Centro dredgermen's tent house.
Laborers' tent house.
Outhouses (3).
Cooks' helpers' tent house.
Cooks' tent house.
Two-story building (old cabin of "Silas J. Lewis")
Rock Point ramada.
Tent houses (3) in canyon.
Barn and corral.

Situated at Calexico.

Main office building.
Main office annex.
Arbor camp.
Screen sleeping houses (2).
Blacksmith shop.
Machine shop.
Garage.
Warehouse.
Ice house.
Tank tower (enclosed).
Carpenters' shed.
Oil house.
Oil platform.
Barn.
Corral and ramada.

Situated at Allison Heading.

Tent house.

Situated at No. 5 Heading.

Tent houses (2).

Situated at Rositas.

Tent houses (3).
Tool shed.
Powder magazine.

Situated at Seven-foot Drop.

Tent house.

Situated at Double Weir.

Frame and screen house.

Situated at Dahlia Heading.

Tent houses (2).

Situated at Woodbine Heading.

Tent house.

Situated at Forglove Heading.

Tent house.

Situated at No. 8 Heading.

Tent house.

5. All railroad tracks and equipment, and all telephone lines and equipment, constructed by said California Development Company or the receiver, or used in the operation of or in connection with said irrigation system.

6. All dredgers, automobiles and other property, either real or personal, owned by said California Development Company, and in possession and control of the receiver, W. H. Holabird, which has been used in the maintenance, operation, repair or extension of said irrigation system.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining; and all water, water rights, easements, rights of way, maps, surveys, contracts or concessions, necessary for the maintenance or operation of said irrigation system, or used in connection therewith; also all rights, claims, causes of action held or claimed by said receiver as such receiver against any person whatsoever.

EXHIBIT "B."

The Hall Hanlon ranch: all intakes, headgates, canals, ditches, flumes, rights of way, dams, structures, buildings, dredges, pumps, railroads, telephone lines and appurtenances of every kind and nature constituting any part of the canal system of the California Development Company in the county of Imperial, State of California, together with all water, water rights, contracts, franchises, concessions, rights and privileges appurtenant thereto; also, all right, title and interest that the Southern Pacific Company now has or may acquire in and to the following described properties conveyed by the California Development Company to W. J. Doran, trustee: (1) all Metropolitan Trust Company debenture receipts and collateral mortgage and interest notes; (2) all dredges now in the possession or under the control of W. J. Doran, trustee; (3) all water stock in Imperial water companies Nos. 1, 4, 5, 6, 7 and 8, now held by W. J. Doran as trustee; (4) also in and to all causes of action against either of said Imperial water companies; (5) in and to all causes of action to recover the price of any stock of either of said companies sold by, or on behalf of, said California Development Company; and (6) all its right, title and interest in and to all shares of the capital stock of each of the Mexican companies (La Sociedad de Irrigacion y Terrenos de la Baja California (Sociedad Anonima) and the Compania de Terrenos y Aguas de la Baja California (Sociedad Anonima); also any and all property claims and demands described in the judgment in the case of *Title Insurance and Trust Company vs. California Development Company*, No. 81926 of Los Angeles County, as modified by the decision of the Supreme Court on appeal from said judgment.

The foregoing property description shall not be construed to include any properties conveyed by or on behalf of California Development Company to W. J. Doran, trustee, or the Southern Pacific Company except the properties specifically described in the foregoing paragraph, or to include any claims, demands or causes of action, if any, which the California Development Company or W. H. Holabird, as receiver of the property of California Development Company, may have against Southern Pacific Company or W. J. Doran or any agent or agents of Southern Pacific Company.

DECISION No. 3273.

IN THE MATTER OF THE APPLICATION OF WHITE & CROWELL, A
COPARTNERSHIP, TO INCREASE RATES.

Application No. 2114.

Decided April 21, 1916.

Applicants apply for permission to increase storage rates, and, it appearing that certain increases are justified, the following schedule established: Grain, first month, 50 cents; first two months, 75 cents; season, \$1.00. Beans, dried fruits and raisins, \$1.00 per season. Weighing and shipping, 35 cents per ton, applicants to do all resacking, piling, etc., at their own expense.

REPORT OF THE COMMISSION.

This is an application of W. T. White and F. E. Crowell, doing business as co-partners under the name and style of White & Crowell, in the town of Livingston, Merced County, for authority to increase certain storage rates. Applicants, among other lines of business, are engaged in the operation of a public warehouse in Livingston for the storage of grain, cereals, beans, dried fruits and other farm products.

A public hearing was held in Livingston, April 13, 1916. From the evidence it appears that applicants' rates for the storage of "grain, wheat, barley, oats, rye, Egyptian corn and other cereals" is as follows:

	Per ton.
To September 1st -----	50 cents
To January 1st -----	75 cents
For the season ending June 1st-----	\$1 00
Loading on cars from the wagon after weighing-----	25 cents

Applicants several years ago stored dried fruits and last year stored beans under the grain schedule, but found the rate too low and have asked for permission to file a separate schedule for beans, dried fruits and raisins.

Applicants now ask authority to establish the following rates: For the storage of grain, wheat, rye, barley, oats, Egyptian corn and other cereals, 50 cents per ton for the first month, counting from receipt of the first load; 25 cents per ton additional for the second month, and for the remainder of the storage season to and including June 1st, an additional 25 cents; for shipping grain through the warehouse and weighing the same, per ton, 50 cents; for resacking grain, the actual costs of sacks and labor; for storage of beans, dried fruits and raisins for the season, or portion thereof, ending June 1st, \$1.00 per ton.

From the evidence it appears that beans and dried fruits are not only of considerably more value per ton than grain, but they are stored in much smaller quantities, necessitating, as a rule, separate

storage in small lots, thus in effect decreasing the capacity of the warehouse.

From all the evidence introduced we find that applicants should be allowed to increase their rates as hereinafter set forth. In this connection we might call attention to the fact that although applicants served notice of the hearing of this application by mailing a copy of the notice to each of their present patrons, not one appeared as a protestant against the proposed increase, and applicants further testified no objections to the proposed increase had been made to them. We do not think, however, that applicants should be allowed to charge more than 35 cents for shipping grain through their warehouse and weighing the same, and we further feel that under the rates hereinafter authorized they should make no additional charge for ordinary resacking.

As to the rates for the storage of fertilizers, applicants have never thus far received any fertilizer for storage, and, accordingly, they may file with this Commission the rate requested without obtaining an order authorizing the same.

ORDER.

W. T. White and F. E. Crowell, conducting a warehouse business in Livingston as copartners under the name and style of White & Crowell, having applied to this Commission for an order authorizing an increase in rates for the storage of certain commodities as set forth in the foregoing opinion, and a public hearing having been held upon said application, and the same having been submitted and being now ready for decision, we hereby find as a fact that the existing rates are noncompensatory and unreasonable, and that the rates hereinafter authorized are just and reasonable.

Basing our conclusion upon the foregoing finding of fact and upon the further findings of fact contained in the opinion which precedes this order,

It is hereby ordered that applicants be and they are hereby authorized to establish and collect the following rates, viz:

For weighing and shipping any commodity through the warehouse, per ton -----	35 cents
For storage of wheat, barley, oats, rye, Egyptian corn and other grain and cereals:	
For the first month-----	50 cents
For the first two months-----	75 cents
For the season to the first day of the following June-----	\$1 00
For storage of beans, dried fruits and raisins, per season or portion thereof, to the first day of the following June-----	1 00

It is hereby further ordered that the collection of these rates shall be conditioned upon the rendering of first-class service as heretofore given, such as receiving, weighing, piling, carrying in storage and

such other service as is customary for warehousemen similarly situated to give, and in addition thereto all necessary and ordinary resacking, including the furnishing of sacks or otherwise placing the commodity stored in proper condition for shipment.

It is hereby further ordered that the rates herein authorized shall not become effective earlier than June 1, 1916, nor unless applicants shall within thirty (30) days from the date of this order file with this Commission the schedule of rates herein authorized.

Dated at San Francisco, California, this 21st day of April, 1916.

DECISION No. 3274.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR APPROVAL OF A LEASE OF RAILROAD EQUIPMENT, AND FOR AN ORDER AUTHORIZING THE ISSUE OF EQUIPMENT TRUST CERTIFICATES IN THE AMOUNT OF FIVE MILLION ONE HUNDRED TEN THOUSAND DOLLARS.

Application No. 2187.

Decided April 21, 1916.

Applicant applies for the approval of a certain agreement and for permission to issue \$5,110,000.00 face value of equipment trust notes, these notes to be issued in part payment for new equipment costing in the aggregate \$6,018,469.64, 15 per cent of which will be paid in cash, the notes to bear interest at $4\frac{1}{2}$ per cent, with discounts and commissions not to exceed $\frac{1}{2}$ per cent additional. Application granted.

Guy Shoup, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by Southern Pacific Company for the approval of a certain lease of railroad equipment, and for authority to issue and guarantee \$5,110,000.00 face value of equipment trust certificates, Series "D."

The Southern Pacific Company proposes herein to acquire certain equipment hereafter specified, from Harry E. Richter and William L. Fry, the vendors, through the medium of Commercial Trust Company of Philadelphia, trustee. This equipment is to cost \$6,018,469.64. The applicant will pay approximately 15 per cent in cash, and for the balance of the cost of said equipment will cause to be issued \$5,110,000.00 of equipment trust certificates, Series "D," to be dated May 1, 1916, maturing in ten equal annual installments, with dividend warrants or interest coupons of $4\frac{1}{2}$ per cent per annum.

The Southern Pacific will acquire the following equipment under the agreement herein at the prices specified:

20 locomotives -----	\$516,140 00
10 baggage cars -----	71,500 00
6 baggage and mail cars -----	58,878 00
12 baggage and mail cars -----	117,756 00
2 baggage and mail cars -----	20,056 00
15 coaches -----	167,040 00
3 coaches -----	33,351 00
2 baggage and passenger cars -----	19,830 00
990 box cars -----	1,247,480 10
500 box cars -----	624,465 00
298 box cars -----	370,786 50
199 gondolas -----	214,374 74
473 flat cars -----	448,569 55
125 flat cars -----	118,543 75
450 stock cars -----	474,574 50
150 stock cars -----	158,191 50
100 stock cars -----	105,461 00
500 automobile cars -----	676,730 00
100 automobile cars -----	134,879 00
300 oil tank-cars -----	439,854 00
Total -----	\$6,018,469.64

Copies of the lease and agreement under which the applicant will acquire the equipment and issue the equipment trust certificates have been filed with the application and marked Exhibit "A."

The equipment trust certificates will be callable after May 1, 1921, at 102½ per cent of face value. The certificates will be guaranteed both as to principal and dividend warrants or interest by Southern Pacific Company.

This Commission has heretofore authorized Southern Pacific Company to issue equipment trust certificates, Series "A," Series "B" and Series "C," under agreements substantially in the form of agreements under which it is now proposed to issue equipment trust certificates, Series "D." Reference is hereby made to such opinions and orders: Decision No. 572, page 602, Vol. 2, Opinions and Orders of the Railroad Commission of California; Decision No. 947, page 562, Vol. 3, Opinions and Orders of the Railroad Commission of California; Decision No. 1956, page 745, Vol. 5, Opinions and Orders of the Railroad Commission of California.

The Southern Pacific Company is in need of the additional equipment by reason of its augmented business, and it is obvious that the purchase is a desirable one.

The applicant asks for authority to sell its equipment trust certificates, Series "D," on a basis, which with interest warrants, discounts, commissions, etc., will make the interest charge not to exceed 5 per cent, on the basis of the average maturities of said equipment trust certificates.

I recommend that the application be granted and submit the following form of order:

ORDER.

Southern Pacific Company having applied to this Commission for an order authorizing it to enter into a lease of railroad equipment from Commercial Trust Company of Philadelphia and to enter into an agreement with Harry E. Righter and William L. Fry and Commercial Trust Company of Philadelphia, said proposed lease and said proposed agreement being both dated May 1, 1916, and a copy of said lease and a copy of said agreement having been filed in connection with the application herein and marked Exhibit "A";

And Southern Pacific Company having applied to this Commission for an order authorizing it to guarantee an issue of equipment trust certificates, Series "D," the issue of which is provided for under the terms of said lease and agreement, dated May 1, 1916, said equipment trust certificates, Series "D," to aggregate in principal \$5,110,000.00, to bear dividend warrants at the rate of $4\frac{1}{2}$ per cent per annum, payable on the first day of May and the first day of November of each year, said certificates to mature in ten equal installments, payable respectively on May 1st of each year, from May 1, 1916, to May 1, 1926, inclusive, a form of said equipment trust certificates and of the guarantee of Southern Pacific Company thereon being contained in said copy of agreement;

And Southern Pacific Company having applied also for authority to issue said equipment trust certificates and to pay discounts and commissions which, with the $4\frac{1}{2}$ per cent dividend warrants, shall amount not to exceed 5 per cent on the basis of average maturities of said equipment trust certificates; and a hearing having been held upon said application and it appearing that the equipment to be obtained by Southern Pacific Company under the terms of said lease and said agreement is reasonably required in the conduct of its business, and that the proceeds of said car equipment trust certificates are not reasonably chargeable to operating expenses or to income,

It is hereby ordered that Southern Pacific Company be granted authority and it is hereby granted authority to enter into a lease of railroad equipment from Commercial Trust Company of Philadelphia, and to enter into an agreement with Harry E. Righter and William L. Fry and Commercial Trust Company of Philadelphia, said proposed lease and said proposed agreement to be dated May 1, 1916, and to be substantially in the form of a copy of said lease and a copy of said agreement heretofore filed with this Commission in connection with the application herein and marked Exhibit "A."

It is further ordered that Southern Pacific Company be granted authority and it is hereby granted authority to guarantee an issue of equipment trust certificates, Series "D," the issue of which is provided for under the terms of said lease and agreement, to be dated May 1, 1916, said equipment trust certificates, Series "D," to aggregate in principal \$5,110,000.00, to bear dividend warrants at the rate of $4\frac{1}{2}$ per cent per annum, payable on the first day of May and the first day of November of each year, said certificates to mature in ten equal installments, payable respectively on May 1st of each year, from May 1, 1916, to May 1, 1926, inclusive.

It is further ordered that Southern Pacific Company be granted authority to issue said equipment trust certificates and to pay discounts and commissions which, with the $4\frac{1}{2}$ per cent dividend warrants, shall amount not to exceed 5 per cent on the basis of the average maturities of said equipment trust certificates.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) Southern Pacific Company shall keep separate, true and accurate account showing the receipt and application in detail of the proceeds of said equipment trust certificates in so far as they affect the equipment to be used exclusively within the State of California, and on or before the twenty-fifth day of each month shall make a verified report to this Commission, stating the sale or sales of said equipment trust certificates with the terms and conditions thereof, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, but only in so far as applicable, is made a part of this order.

(2) The authority herein granted shall become effective only when the Southern Pacific Company shall pay the fee prescribed under section 57 of the Public Utilities Act, as amended.

(3) The authority herein granted shall apply to such equipment trust certificates as shall have been issued on or before December 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of California.

Dated at San Francisco, California, this 21st day of April, 1916.

DECISION No. 3275.

M. M. ESHEEMAN ET AL.

vs.

TITLE GUARANTEE AND TRUST COMPANY.

Case No. 864.

Decided April 21, 1916.

Complainants attack the rates, rules and service of defendant operating a water utility in the city of Tropic. The following schedule of rates established to become effective within twenty days: Minimum per month, 75 cents, entitling consumer to 400 cubic feet; next 1,600 cubic feet, 10 cents per 100; over 2,000 cubic feet, per month, 6 cents per 100; municipal uses, sprinkling, etc., 6 cents per 100 cubic feet; fire service, \$75.00 per month for hydrants installed; additional hydrants 50 cents per month each. Flat rates remain unchanged.

Held, That the company is entitled to a return on the value of a certain pumping plant which, though only used during a few months of the year, is necessary to enable it to render adequate and efficient service during periods of drought. That the sum paid for this system under an agreement at a foreclosure sale is not binding upon the Commission as the value of this property upon which the company is entitled to a return. That though certain charges were made for service connections, the plant and system of defendant were not constructed by consumers as alleged in the petition. It is found, however, that certain fire hydrants were installed at an expense to the city of \$4,768.00.

Nelson C. Burch, for Complainants.

E. W. Sargent and *W. G. Cook*, by *W. G. Cook*, for Defendant.

Henry P. Goodwin, city attorney, for City of Tropic.

REPORT OF THE COMMISSION.

Defendant, as trustee for the bondholders of Glendale Consolidated Water Company, is engaged in serving domestic water to the inhabitants of Tropic, Los Angeles County, a city with a population of about 4,000, adjoining Los Angeles on the north.

The principal allegations of the complaint are:

1. That defendant's rates are unjust and unreasonable;
2. That it fails and refuses to provide adequate equipment and facilities for the service;
3. That the cost and expense of providing and maintaining said equipment and facilities have been and are now collected from consumers;
4. That inhabitants of Tropic are entitled to the free use of a portion of the flow of the water rising in Verdugo Canyon, which portion is sufficient to supply their needs;

5. That defendant's reservoirs, mains, meters, pipes and connections for serving said water to the inhabitants of Tropico were acquired, constructed and installed at the cost and expense of the inhabitants, as follows:

Distribution pipes	\$28,000 00
Meters and meter connections.....	12,500 00
Repairs and replacements for two years one and one-half months, ending December 31, 1914	10,600 00
Fire hydrants, connections and pipe service extensions provided by the city at an expense during the fiscal year ending June 30, 1915, of	4,768 00

6. That the inhabitants "are owners of a proprietary right to a perpetual easement in the said instrumentalities and equipment and facilities * * * subject only to the payment of a service rate."

It is further alleged that neither defendant nor its predecessor has made any additional outlay for the purchase, upkeep, betterment or maintenance of the system other than at the cost and expense of consumers. The prayer is for an order fixing rates and for further relief generally.

The answer alleges that defendant as trustee for Glendale Consolidated Water Company is the owner of all of the property including water, water rights, pipe lines, reservoirs and rights of way formerly belonging to the latter company, through purchase at foreclosure sale on November 6, 1912, part of the property acquired being the water system serving Tropico and vicinity; that its rates established by the city of Tropico are not sufficient to provide for maintenance and operation, depreciation and interest on the value of the plant, but that the city adopted an ordinance to become effective July 1, 1915, which would reduce water rates about half, and that it procured a temporary injunction from the superior court restraining the enforcement of the ordinance.

It admits that consumers paid actual cost of connections in a few instances, but claims to own such connections; and admits that certain fire hydrants installed since July 1, 1914, by the city, are the property of the city, evidently meaning the item of \$4,768.00.

All of the other allegations of the complaint are denied either directly or indirectly, and the answer joins in the prayer to fix rates.

It is not clear from the complaint that the water claimed by the inhabitants is the same as that claimed by defendant. Such a claim on behalf of the inhabitants was advanced by complainants at the hearing, however.

Tropico adjoins Los Angeles on the north, and has a population of about 4,000. The question of annexation to the city of Los Angeles and the use of its aqueduct water has been agitated at times. The city has also negotiated for the purchase of defendant's system. In 1914 a

proposition to issue bonds for that purpose was defeated by the voters. At the time set for hearing the case, the city of Tropicco, by its city attorney, requested that the hearing be continued to some future date to permit the question of issuing bonds by the city for such purpose to be again submitted to the voters. It was stated that the property, including water rights and water stock, had been offered to the city at a tentative price of \$50,000.00. The statement was made with the understanding that the offer should not be considered by the Commission as evidence of value. Objection being made by complainants to the proposed delay, however, the testimony then available was taken and further hearing continued indefinitely. The city and complainants having subsequently advised that no further delay was desired on account of the proposal to issue bonds, a further hearing was held, the remaining testimony submitted, and the matter is now ready for decision. The parties stipulated the following facts:

On November 29, 1871, decree of partition was entered in the case of *A. B. Chapman et al. vs. Teodora Verdugo et al.*, by the district court of the State, partitioning the Rancho San Rafael, including Verdugo Canyon, and declaring the waters of Verdugo Canyon appurtenant to several parcels of land aggregating about 3,333 acres. For the purposes of the decree, the water was divided into ten thousand parts or shares, of which 1,046 were declared by the decree appurtenant to the Dreyfus tract, one of the parcels described in the decree. The tract was subsequently subdivided into 10, 20 and 40-acre parcels by a syndicate composed of Watts, and others. They transferred the 1,046 shares of water by deeds with the lands so subdivided, at the rate of $2\frac{1}{2}$ shares per acre. The subdivided lands were known as Watts Subdivision. Most of the city of Tropicco is built upon said Watts Subdivision, and it is almost entirely used as residence property.

Subsequently the Glendale Pipe and Reservoir Company was organized for the purpose of providing pipes and equipment, and supplying water to the tract. The corporation did not acquire the title to the water, but distributed it locally for the owners. Subsequently the corporate name was changed to Tropicco Water Company. As such, it purchased the 660 shares of water of one Sanchez, a distributee under the decree of partition, and placed it on lands in its Rancho Santa Eulalia, below Watts Subdivision. Subsequently the system of Tropicco Water Company was acquired by Glendale Consolidated Water Company, a corporation. There were then 1,721 shares of water appurtenant to the lands of the district, being 1,046 shares of original Dreyfus water, 660 shares acquired from Sanchez, and 15 shares not traced.

Verdugo Canyon Water Company was organized about the time of the partition of the land, as a mutual company, with a capital stock of 10,000 shares, for the sole purpose of delivering water for the owners of

the water. It did not acquire title to any of the water and did not distribute it locally. Its by-laws provide that only the owners of water in the canyon can become stockholders in the corporation, and at the rate of one share of stock for each share of water owned. The capital stock of the company was and is divided into as many shares as there are shares or parts of water described in the decree of partition. The stock is assessed regularly for expense of maintenance and operation of the system. About one-fourth of the land described in the decree of partition was distributed thereby to Messrs. Ross and Thom. They never became stockholders in Verdugo Canyon Water Company, but they pay one-fourth the cost of maintenance and operation of the company's works, the other three-fourths being paid by the holders of the 7,500 shares of issued stock. In practice the water of the canyon is actually divided into 10,046 shares or parts through some error, and it is agreed no one knows how the error originated or where it is. It was also stipulated that the record in Application No. 936 herein-after cited—being application by city of Glendale to have the Commission fix valuations on certain water systems in that city—should be considered in evidence in this case.

Defendant has acquired title by deeds to 1,114 $\frac{1}{2}$ shares of the water of Verdugo Canyon and holds 1,114 $\frac{1}{2}$ shares of the capital stock of Verdugo Canyon Water Company, evidenced by three certificates in its name on the books of the company. Through foreclosure proceedings instituted under deed of trust executed by the Tropico Water Company and through a deed and agreement with the trustee under a deed of trust securing the payment of an issue of \$650,000.00 of bonds of Glendale Consolidated Water Company, the defendant has succeeded to the rights of said company in said water, water stock and system, which during its existence had both names. The purchase price at the foreclosure sale on November 6, 1912, was \$27,000.00. The property is now held in trust by defendants as trustee to manage and repay from the proceeds, first the \$27,000.00, and then distribute the remaining proceeds to the bondholders of Glendale Consolidated Water Company. The system was formerly operated by Glendale Consolidated Water Company as part of a system or systems operated by it in a group of municipalities in the immediate vicinity of Tropico. The other portions have been disposed of, and that now under consideration is practically all that remains.

The rates established by ordinance of the city of Tropico effective July 1, 1913, provide for certain flat rates and for meter rates, as follows:

- \$1.25 monthly minimum for 800 cubic feet or less;
- .07 per 100 cubic feet excess.

On May 25, 1915, the City of Tropico passed Ordinance No. 105, establishing rates effective July 1, 1915. The meter rates established therein are as follows:

\$0.75 monthly minimum for 800 cubic feet or less;
.05 per 100 cubic feet excess.

Defendant obtained a temporary injunction from the Superior Court, which injunction is still in force, making the new ordinance non-operative.

The operating revenues collected under the rates in effect for the last two years, with operating expenses shown by the books of defendant are:

	1914	1915
Operating revenues	\$14,276 47	\$14,673 23
Operating expenses and taxes.....	6,453 62	6,263 72

Considerable additional expense has been occasioned by the adoption of an ordinance by the city requiring defendant to maintain a local office in Tropico for billing, metering, reading and collecting. The bookkeeping is done by defendant at its Los Angeles office, the charge for this service having been \$40.00 and \$50.00 per month during 1914 and 1915, respectively. The bookkeeping expense is probably less than if it were done in Tropico. During the continuance of the trust, fees of the trustee and its attorneys will probably be allowed by the courts or by agreement between the parties to the trust. No express charge has been made for legal or executive expense. If the property were administered as directed, such charges would probably be found necessary.

The company has charged off \$3,500.00 each year for depreciation, but has made no statement as to how this sum was found. The Commission's engineers estimated that there should be laid aside each year for depreciation fund the sum of \$1,267.50, if computed by the sinking fund method, or \$2,267.46 if computed by the straight line method.

An appraisal of the properties was submitted by defendant as follows.

Estimated cost new less depreciation.....	\$54,401 40
18 miner's inches minimum flow of water at \$2,000.00 per inch.....	36,000 00
*1.114½ shares of Verdugo Canyon Water Company stock at \$2.00..	2,228 00

Total depreciated cost new.....	\$92,629 40
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*Defendant paid \$10.00 per share for 81 shares of water pipe stock bought in 1914.

An appraisal of the physical properties was presented by the Commission's engineers as follows:

Estimated cost new of real estate and equipment.....	\$67,543 00
Depreciated cost new.....	49,709 00

These figures do not include water pipe stock or water rights.

The Commission's engineers investigated the pipe system very carefully, and arranged several conferences, in which all the data possible concerning the age of various sections of pipe was secured. The total of the appraisal includes a certain nonoperative piece of land held as a prospective reservoir site, and services and meters.

The following table shows a comparison of appraisals made by Arthur Campbell, defendant's superintendent, and by the Commission's engineers:

Item	Estimated cost new		Estimated cost new, less depreciation (by straight line method)	
	Company superintendent	Commission's engineers	Company superintendent	Commission's engineers
Real estate -----	\$7,700	\$7,220	\$7,700	\$7,220
Buildings -----	670	1,171	670	609
Well and shaft -----	1,048	980	634	622
Pumping equipment -----	4,491	5,123	2,656	3,312
Transmission pipes -----	7,974	7,195	6,662	5,756
Reservoir -----	6,150	6,083	6,150	3,447
Distribution system -----	25,224	26,331	19,594	18,638
Services -----	4,580	4,497	3,677	3,238
Meters -----	8,423	8,305	6,388	6,229
Tools, etc. -----	270	338	270	338
Stock on hand -----		300		300
Subtotals -----	\$66,530	\$67,543	\$54,401	\$49,709
Water stock -----	2,228		2,228	
Water rights -----	36,000		36,000	
Grand totals -----	\$104,758		\$92,629	

From the cost of physical property upon which an interest return should be allowed we will eliminate the prospective reservoir site, appraised at \$1,340.00, as not yet useful in the system. When put to use its value may be added. Approximately half the services and meters now in place were installed at the expense of the consumers at \$15.00 each.

No testimony was offered showing that any portions of the distributing pipes, repairs and replacements were paid for out of rates, nor installed at the cost of the inhabitants, nor showing the amounts invested by defendant during the time it has operated the property. No testimony was offered tending to show poor service or a refusal to provide adequate equipment or facilities. The investigation by the Commission's engineers did not disclose poor service or inadequacy. From the data showing the age of the various parts, it is apparent that little money has been invested since the foreclosure. Fire hydrants are not claimed by defendant as part of the system, and they are not included in either valuation.

The records of water deliveries made by defendant were examined by the Commission's engineers and the result presented at the hearing shows that the proportionate use of water is as follows:

- 42 per cent use less than 600 cubic feet per month.
- 15 per cent use over 600 and less than 800 cubic feet per month.
- 10 per cent use over 800 and less than 1,000 cubic feet per month.
- 7 per cent use over 1,000 and less than 1,200 cubic feet per month.
- 26 per cent use over 1,200 cubic feet per month.

100 per cent.

The total quantity used in the Tropico district during 1915 was approximately 8,300,000 cubic feet.

In Application No. 936, by the city of Glendale, to fix a value for the purchase of certain properties, it was determined by the Commission that the safe yield or dependable flow of water in Verdugo Canyon was 155 miner's inches. (Vol. 4, Opinions and Orders of the Railroad Commission, p. 1011.) The earlier determination of the quantity of water flowing was based on evidence of flow for the previous ten years, and the amount determined was the lowest monthly average flow for the year 1913, which was recognized as a very dry year. The undisputed evidence at the hearing herein shows that the low flow for 1914 and 1915 was about 200 miner's inches. Using 155 miner's inches as a basis, 1,114½-10,000 of the flow of the canyon (for which defendant or its predecessors in title received deeds from individual land owners) would be equivalent to 17.7 miner's inches.

Complainants advance the theory that a utility should make repairs at its own expense, such expense to become a part of its capital on which it is entitled to receive an adequate return in rates. Under their theory the invested capital would be continually increasing, and eventually would become several times the actual value of the plant. An adequate return upon the investment would then produce an unreasonable rate, out of all proportion to the value of the service. Repairs and other expenses for maintenance of the system are a part of operating expense. Extensions, additions and betterments alone constitute proper basis for increase in capital. Replacement is provided for through allowance for a depreciation fund. The appraisal of property and the consideration of maintenance and operation expense by the Commission's engineers herein, conforms to the accounting methods established by the Commission, founded upon the above principles.

Complainants urge that the water declared by the decree appurtenant to the Dreyfus Tract, because of that circumstance, could not be used on other land. Yet, they showed that the Watts syndicate, long after the decree, purchased the Sanchez water from the land to which it was so declared appurtenant and put it upon the purchaser's lands in Rancho Santa Eulalia, to which it was by them declared appurtenant.

Evidently these water rights could be separated from the lands when found expedient. However, it is apparent that quite generally the water originally used in Tropico for irrigation is now used there for domestic purposes.

It was alleged by the complainants that the pumping equipment was more necessary for providing outside consumers with water than it was to increase supply, in periods of shortage, to the inhabitants of Tropico. This pumping plant is operated some six weeks every year. We doubt the wisdom of eliminating the pumping plant, if that were possible, and would anticipate many complaints during periods of drought without such an auxiliary.

Complainants urge that the value of the system for fixing rates in any event does not exceed the \$27,000.00 paid for it at the foreclosure sale. It should be remembered in this connection that while that sum represented the debt, interest and costs accrued, it did not necessarily represent the amount which the plant might have sold for at forced sale under ordinary circumstances. But for the agreement by which they are to share in the proceeds of a subsequent private sale, the bondholders would probably have been bidders at the foreclosure sale. It was not necessary for them to bid to protect their interests, as they were already protected by the agreement. Defendant holds the naked legal title in trust for the bondholders who already have suffered a heavy loss. Basing rates on a supposed value evidenced only by the fixed price bid under these circumstances would improperly depreciate the value of the property in the consideration of a prospective purchaser, thus destroying a large part of its actual value in the hands of the beneficial owners.

It is unnecessary to discuss the ownership of the plant or water rights further than has been done incidentally herein, or to make findings on the subject.

In considering rates which will produce an adequate provision for maintenance and operation of the system and return upon the property, we estimate that the net revenue for the current year, based upon water use for 1915 at the rates provided in the order, will be as follows:

Operating revenue	\$12,750 00
Maintenance and operation.....	\$6,360 00
Sinking fund for depreciation.....	1,270 00
	<hr/>
	7,630 00
	<hr/>
Net operating revenue.....	\$5,120 00

Increase in revenue in 1915 over 1914 was approximately 3 per cent, and this increase will probably continue. Some changes in water use

may result from the new rates. It is believed, however, they will provide fully for all proper expenses of the system and for an adequate return upon the reasonable value of all of the property, including the right to divert and distribute water.

ORDER.

M. M. Eshelman et al. having complained of the service and rates charged and collected by defendant, as trustee for Glendale Consolidated Water Company for water served to the inhabitants of the city of Tropicco for domestic purposes, and defendant having filed its answer, and joined in the request to fix rates, and a public hearing of the case having been held, the Commission does hereby find as facts:

(a) That the said rates, in so far as they differ from the rates herein found to be reasonable, are unreasonable and unjust, and the rates hereinafter set out are hereby found to be just and reasonable rates to be charged for the distribution of water by Title Guarantee and Trust Company to its consumers;

(b) That it has not failed or refused to provide adequate equipment and facilities for the service of water;

(c) That the plant and system were not constructed by consumers or at their expense;

(d) That fire hydrants of the original cost of \$4,768.00 were installed by the city of Tropicco at its cost and expense.

Basing this order on the foregoing findings of fact, and the findings of fact in the above and foregoing opinion,

It is hereby ordered that defendant, Title Guarantee and Trust Company, be and it is hereby directed to establish and to file with this Commission within twenty days from the date of this order the following schedule of monthly rates to be charged for service of water to the inhabitants of Tropicco and vicinity, to wit:

Monthly Meter Rates.

Minimum, including first 400 cubic feet, 75 cents.

Next 1,600 cubic feet per 100 cubic feet, 10 cents.

Use in excess of 2,000 cubic feet, per 100 cubic feet, 6 cents.

Municipal use for sprinkling and flushing sewers, per 100 cubic feet, 6 cents.

Fire service, \$75.00 per month for the hydrants in service April 1, 1915. Additional hydrants, 50 cents per month each.

Flat rates in effect April 1, 1916, unchanged.

Dated at San Francisco, California, this 21st day of April, 1916.

DECISION No. 3276.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SAN DIEGO BEACH RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF PROMISSORY NOTES OF THE TOTAL FACE VALUE OF FIFTY-ONE THOUSAND DOLLARS.

Application No. 2069.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SAN DIEGO BEACH RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF FOUR PROMISSORY NOTES OF THE FACE VALUE OF FOUR THOUSAND SEVEN HUNDRED FIFTY DOLLARS EACH, AND TO PLEDGE ITS BONDS AS SECURITY THEREFOR.

Application No. 2164.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SAN DIEGO BEACH RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF ITS PROMISSORY NOTE FOR TWO THOUSAND FIVE HUNDRED DOLLARS.

Application No. 2180.

Decided April 21, 1916.

Applicant requests permission to issue promissory notes in renewal of notes which have already fallen due, or are about to fall due, amounting in the aggregate to \$87,797.75, bearing interest at 6 and 7 per cent. Renewal notes authorized for a period of not to exceed two years, with interest at not to exceed the rate paid on the notes to be renewed.

Leovy & Leovy, for Applicant.

REPORT OF THE COMMISSION.

These three applications, all of which request authority to issue promissory notes in renewal of certain promissory notes now outstanding, were consolidated at the public hearing which was held in San Diego April 4, 1916. From the evidence it appears that applicant has an authorized bonded indebtedness of the total face value of \$375,000.00 of which, however, bonds of the face value of only \$5,000.00 have thus far been sold by applicant. In addition to this, certain of applicant's promissory notes have been secured by its bonds, pledged as collateral upon the basis of \$100.00 face value of bonds for each \$70.00 face value of notes.

Applicant has submitted a statement of its floating indebtedness, showing an open account due E. S. Babcock amounting to \$102,818.28, and the following outstanding promissory notes:

Date of note	Payee	Principal	Interest rate, per cent.	Date of maturity	Security (bonds)
3/15/16	American Natl. Bank, San Diego.	\$5,000 00	6	9/15/16	\$7,000 00
2/16/16	Southern Trust and Savings Bank, San Diego.	5,000 00	7	8/15/16	7,000 00
2/ 2/16	Southern Trust and Savings Bank, San Diego.	1,759 75	7	8/ 2/16	-----
1/20/16	American Natl. Bank, San Diego.	1,500 00	6	4/19/16	-----
7/25/15	American Natl. Bank, San Diego.	2,500 00	7	11/25/15	-----
6/24/15	Southern Trust and Savings Bank, San Diego.	8,000 00	7	12/24/15	-----
6/24/15	Southern Trust and Savings Bank, San Diego.	3,000 00	7	12/24/15	-----
6/15/15	American Natl. Bank, San Diego.	15,000 00	6	8/14/15	-----
5/22/15	San Diego Electric Railway Company, San Diego.	4,038 00	6	5/ 1/16	-----
2/11/15	Citizens Natl. Bank, Los Angeles	15,000 00	7	5/22/15	-----
2/11/15	Citizens Natl. Bank, Los Angeles	4,000 00	7	5/22/15	-----
11/ 5/14	Merchants Natl. Bank, San Diego.	21,000 00	7	2/ 3/15	30,000 00
2/ 1/15	Union Oil Company, San Diego.	2,000 00	7	9/ 1/15	-----
	Total -----	\$87,797 75			

It will be seen from the above table that notes of the total face value of \$31,000.00 are secured by \$44,000.00 face value of applicant's bonds. All of said notes are further endorsed by E. S. Babcock, applicant's president.

At the hearing it developed that under Application No. 2164, applicant was requesting permission to issue to Citizens National Bank of Los Angeles, four notes of the face value of \$4,750.00 each, instead of one note for \$4,000.00 and one note for \$15,000.00, as requested in Application No. 2069, and applicant requested and was granted permission to amend the last mentioned application by striking out that portion of it referring to said two notes. With this amendment the three applications request authority to issue promissory notes of the total face value of \$53,500.00 in renewal of notes now outstanding and to pledge, as security for the four notes of \$4,750.00 each, payable to the Citizens National Bank of Los Angeles, applicant's bonds at a ratio of not to exceed \$100.00 of bonds to \$70.00 of notes.

It further appears that the notes which applicant wishes to renew have been all authorized by this Commission under previous orders, and under all the circumstances of the case we feel that the applications, as amended, should be granted.

ORDER.

Los Angeles and San Diego Beach Railway Company having applied for an order authorizing the issue of promissory notes in renewal of the notes hereinafter set forth, and a public hearing having been held, and the Railroad Commission finding that the purposes for which said outstanding notes or the proceeds thereof were used were not in whole or in part reasonably chargeable to operating expenses or to income and that these applications should be granted,

It is hereby ordered that Los Angeles and San Diego Beach Railway Company be and the same is hereby authorized to issue its promissory notes for terms not exceeding two years from April 30, 1916, at rates of interest and in amounts not to exceed those in effect as to each of said notes, respectively, payable to the same payees as at present, in renewal of the following notes:

Date of note	Payee	Principal	Interest rate per cent.	Date of maturity
7/25/15	American National Bank, San Diego-----	\$2,500 00	7	11/25/15
6/24/15	Southern Trust and Savings Bank, San Diego	8,000 00	7	12/24/15
6/24/15	Southern Trust and Savings Bank, San Diego	3,000 00	7	12/24/15
2/11/15	Citizens National Bank, Los Angeles-----	15,000 00	7	5/22/15
2/11/15	Citizens National Bank, Los Angeles-----	4,000 00	7	5/22/15
11/ 5/14	Merchants National Bank, San Diego-----	21,000 00	7	2/ 3/15

The authority herein granted is granted upon the following conditions and not otherwise:

1. Los Angeles and San Diego Beach Railway Company may, if it so elects, issue four notes of the face value of \$4,750.00 each to the Citizens National Bank of Los Angeles in place of the note for \$4,000.00 and the note for \$15,000.00 herein authorized.

2. Los Angeles and San Diego Beach Railway Company shall issue said notes so as to net not less than the face value thereof.

3. Los Angeles and San Diego Beach Railway Company is hereby authorized to pledge as collateral security for the renewal note of \$21,000.00 to the Merchants National Bank of San Diego, the \$30,000.00 face value of its first mortgage $5\frac{1}{2}$ per cent sinking fund gold bonds which were pledged as collateral security for the existing note to said bank under the authority of this Commission as given on January 21, 1916, by Decision No. 3052, and applicant is further authorized to pledge as collateral security for the \$19,000.00 face value of notes payable to Citizens National Bank of Los Angeles its $5\frac{1}{2}$ per cent sinking fund gold bonds on such a basis that the ratio shall never exceed \$100.00 face value of bonds to \$70.00 face value of such notes or unpaid

portions thereof or notes given in renewal thereof as hereinafter authorized.

4. Los Angeles and San Diego Beach Railway Company is hereby authorized during the period of two years from the date of this order to issue further notes in renewal of those herein authorized on the same terms, provided that the combined terms of the notes hereby authorized and those issued in renewal thereof, respectively, shall not exceed two years from April 30, 1916.

5. After the notes herein authorized, or any portion thereof, shall have been paid, the bonds herein authorized to be pledged shall be released by said payment or payments, shall be returned to applicant's treasury and shall not again be issued without the authorization of this Commission.

6. Los Angeles and San Diego Beach Railway Company shall keep a true and accurate record of the issue of the notes herein authorized and the pledging of the bonds herein authorized to be pledged and shall, on or before the twenty-fifth day of the month following the issue of the respective notes and the pledging of the respective bonds, make a verified report to this Commission setting forth the issue of the notes herein authorized, the fact and the date of issue, the rate of interest, the application of the proceeds, and the security pledged as collateral, if any, all in accordance with this Commission's General Order No. 24, which in so far as applicable is made a part of this order.

7. Any agreement between the applicant and the respective pledgees relative to the pledge of bonds herein authorized to be issued shall contain a provision by which the pledgee shall give applicant and the trustee under its bond issue, ten days written notice in case of intention to sell under the terms of said pledge.

8. Within ten days after the execution of any agreement pledging as collateral any of the bonds herein authorized to be pledged applicant shall file a copy of said agreement with this Commission.

Dated at San Francisco, California, this 21st day of April, 1916.

DECISION No. 3277.

EAST BAKERSFIELD IMPROVEMENT ASSOCIATION

vs.

SAN JOAQUIN LIGHT AND POWER CORPORATION AND BAKERSFIELD
GAS AND ELECTRIC CORPORATION.

Case No. 618.

PERKINS BROTHERS COMPANY ET AL.

vs.

SAN JOAQUIN LIGHT AND POWER CORPORATION.

Case No. 655.

H. J. BEAL ET AL.

vs.

SAN JOAQUIN LIGHT AND POWER CORPORATION.

Case No. 732.

MRS. S. McMASTERS ET AL.

vs.

SAN JOAQUIN LIGHT AND POWER CORPORATION.

Case No. 800.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER ASCERTAINING AND ESTABLISHING JUST AND REASONABLE RATES TO BE CHARGED FOR ELECTRIC ENERGY.

Application No. 1666.*Decided April 22, 1916.*

Defendant applies for a rehearing, alleging that the schedule of rates established by the Commission will not provide an adequate return upon the value found for its system. A check of these figures shows that defendant failed to include the increase in business reasonably expected to occur during the year 1916, which will provide considerable additional revenue; and, as the Commission has provided for a corresponding increase in operating expenses, defendant's contention is not well founded. However, the rate applicable to Fresno City Water Company is found to be too low under the new schedule, which is amended so as to provide that the old rate of 2 cents per kilowatt hour will apply.

As to defendant's contention that the new schedule will not provide a return sufficient to enable it to issue new bonds, its trust deed requiring that net income shall be twice the amount of interest due on all outstanding bonds, a recheck of probable income and expenses shows that an adequate return is provided for all purposes of such a nature.

Other than the change in rate to the Fresno City Water Company and the establishment of additional street lighting rates, the schedules as heretofore established are held just and reasonable and defendant is directed to file same on or before May 1, 1916, together with rules and regulations containing provisions for forms of contracts as provided in the original order, and also providing that the company shall pay for all meter installations. Petition for rehearing denied.

REPORT OF THE COMMISSION.

OPINION ON PETITION FOR REHEARING.

San Joaquin Light and Power Corporation has filed a petition for rehearing herein.

We shall consider such of the averments of said petition as seem to require mention. Although this Commission, as alleged by petitioner, stated in its opinion of April 6, 1916, herein, that "any necessity which exists for the Merced Falls plant is of a more or less temporary nature," the Commission, in order to be entirely fair to the San Joaquin corporation, included in the total sum of \$10,054,540.00, on which a return is allowed, all moneys invested in the Merced Falls plant.

The San Joaquin corporation alleges that additional expenditures, amounting to \$600,000.00, will be necessary to enable the corporation to furnish adequate and efficient service, and that this Commission has failed to make any allowance for such purpose. The petitioner is in error with reference to the latter allegation. Table No. XX, in the opinion of April 6, 1916, shows that the Commission allowed an item for new construction capital amounting to \$175,300.00, on which a return of 8 per cent is allowed during the entire year. It is usual to assume in such cases that the entire sum for new construction will be invested during half the year, or half the sum during the entire year. As the Commission allowed a return of 8 per cent during the entire year, its allowance is thus equivalent to the sum of \$350,600.00. If it is found necessary to expend capital in addition to this sum for new construction, the additional revenues which will be derived from such construction in excess of the revenues assumed by this Commission, will take care of the additional expenditure.

San Joaquin corporation alleges that the rates established by this Commission herein will not yield the sum of \$804,363.20, which amount this Commission found to be a just and reasonable net income, and in this regard the petitioner avers "that said rates can not and will not yield to applicant under existing conditions or under any conditions reasonably to be anticipated, a sum annually in excess of \$640,000.00."

It may be well here to draw attention to the fact that a net income of \$640,000.00 would yield a return of 6.36 per cent on the sum of \$10,054,540.00, being the fair value of petitioner's property devoted to its electric business, as found by the Railroad Commission herein, and that the alleged deficiency of \$164,363.20 below an 8 per cent return amounts to a reduction of only 10.5 per cent in the San Joaquin corporation's gross revenue from its electric business for the year ending December 31, 1915, which revenue was \$1,566,465.53.

Attention should be drawn to the fact that petitioner, in alleging that its revenue will be decreased, based its claim entirely on the business for the year 1915, and assumed that not one cent of additional revenue will be derived from new business in 1916 and thereafter. In view of the fact that the San Joaquin corporation's resumed endeavors to secure new business dating from September, 1915, have already resulted in a large increase in business, and of the further fact that there is available within the territory served by the San Joaquin corporation a large amount of desirable gas engine agricultural power business, which business the reduced agricultural power rates herein established will enable the San Joaquin corporation, to a considerable extent, to acquire, the failure of the petitioner herein to make any allowance whatsoever in its computations for increased business reasonably to be anticipated, is

significant in showing that but little weight can be attached to petitioner's claims as to the amount of decreased revenues to be anticipated, from the rates herein established. Furthermore, petitioner, while failing to take into consideration any increased business for 1916, used in its computations the allowance made by this Commission for operating expenses and depreciation, although said operating expenses were increased over those actually incurred in 1915, to take care of a normal increase of business for 1916.

Petitioner alleges that its gross revenue from residence lighting business for 1915 was \$260,573.64, that its gross revenue from this business calculated on the new rate would have been \$181,162.48, and that petitioner would accordingly have suffered a gross annual loss in revenue of \$79,411.16 from this class of business if the rates herein established had been in effect in 1915. Careful computations made by this Commission on the basis used by the petitioner herein show that on this basis the revenue for 1915 from this class of business would have been \$222,506.64, instead of \$181,162.48, as claimed by petitioner. In other words, petitioner has claimed that its loss in gross revenue from this class of business would have been \$41,344.16 in excess of the correct loss. The error in petitioner's calculations is due to the fact that in estimating the revenue from all consumers using in excess of 20 kilowatt hours per month, petitioner has estimated only the revenue to accrue from the excess over 20 kilowatt hours per month, and has entirely failed to include the revenue from the first 20 kilowatt hours per month from each of such consumers.

The petitioner has heretofore received an average revenue of 8.9 cents per kilowatt hour from its residence lighting business. This return was higher than that received for this service by any other large electric utility in this State, with only one or two exceptions.

The San Joaquin corporation alleges that it will lose its entire business under the contract with Tulare County Power Company, which contract was assumed by the Mount Whitney Power and Electric Company. If the Commission's suggestion with reference to this contract, made in the opinion of April 6, 1916, to the effect that a contract providing for reciprocal service to be rendered by each of the parties to the other party in times of shortage of electric energy on the part of either party is followed, the San Joaquin corporation will no doubt derive from such contract a considerable revenue. The amount of such revenue can not at the present time be determined.

San Joaquin corporation avers that it will lose \$31,534.40 annually, due to a decrease in the rate to be paid by Fresno City Water Company. On further investigation, it appears that Fresno City Water Company supplies service not merely from its own substation at Fresno but also from the San Joaquin corporation's distributing lines, and that the

San Joaquin corporation reserves capacity in its steam plant in Fresno for service to Fresno City Water Company. Under these unusual conditions, we have reached the conclusion that the rate to be paid by Fresno City Water Company should be the same as the rate heretofore in effect. This rate was two cents per kilowatt hour, and will appear in an additional schedule which will be found in the order herein.

The San Joaquin corporation alleges that on the basis of its 1915 business, it will suffer a loss of \$42,644.57 in gross revenue in its agricultural power business. The rates herein determined for agricultural power service were established for the purpose of enabling the farmers to take a class of service which they can really use. A twelve months rate is generally not applicable to the farmer's wants for the reason that he generally pumps only from seven to nine months, inclusive. While the San Joaquin corporation has heretofore had seasonal rates for agricultural pumping, they were not sufficiently flexible. Frequently a farmer found that his term expired before he had completed pumping and that he was subject to heavy penalties for all subsequent pumping. Accordingly, he frequently took a twelve months rate, although he did not need it.

The agricultural power rates herein established will meet the requirements of the farmers and will undoubtedly result in a large amount of additional business of this character to be taken on by the San Joaquin corporation, so that the San Joaquin corporation will find itself in the possession of increased revenue from considerable additional business.

The suggestion has been made by representatives of the San Joaquin corporation that the rate for agricultural power service for one or two months is not desirable from the point of view of the company's system peak. If the San Joaquin corporation, on reflection, does not desire to accord this class of service, the company may file rate schedules eliminating agricultural power service for one and two months.

The petition herein refers to certain customers whose rates the San Joaquin corporation alleges will be increased by the rates herein established. There is no allegation that any of this business will be lost to the San Joaquin corporation, and nothing in the record from which a conclusion on this point may be reached. These customers were all receiving rates lower than those received by other customers who were securing the same kind of service. The Commission's order herein has removed the discrimination heretofore existing in favor of favored customers.

The correction in petitioner's calculations with reference to the reduction in the gross revenue from residence lighting service, and the restoration of the rate heretofore applicable to Fresno City Water Company, will result in reducing the decrease in revenue, based on 1915 conditions, as claimed by petitioner, in the sum of \$72,878.56.

It must be remembered, as hereinbefore indicated, that the San Joaquin corporation, in its computations, has made no allowance whatsoever for increased business in 1916 and thereafter.

The San Joaquin corporation further refers to certain provisions of its deed of trust or mortgage to Central Trust Company of America, dated August 1, 1910, to secure the issue of bonds of the aggregate face value of twenty-five million dollars. This trust deed or mortgage provides, in part, that bonds may not be authenticated or delivered by the trustee unless the net income of the company, before deducting depreciation, for the period of twelve months ending two months before the first day of the then current month, has been at least twice the interest on all outstanding bonds.

The petitioner presents a computation to show that under the rates herein established, it will have a deficiency in earnings such that it will not be able to secure additional bonds from the trustee. Petitioner alleges that twice its bond interest is the sum of \$997,590.48, and that its net earnings from all departments before deducting depreciation will be \$867,493.95, thus showing a purported deficiency of \$130,096.53 in the earnings necessary to enable the company to secure additional bonds from its trustee. Correcting petitioner's estimates by the error of \$41,344.16 in the residence lighting rate hereinbefore referred to, and the restoration of the amount heretofore paid by Fresno City Water Company, will increase the net earnings of all departments before deducting depreciation, on the petitioner's own figures, to \$940,372.51. In this connection, it must be remembered that petitioner is using the increased operating expenses for 1916, as estimated by this Commission, and is not making any allowance whatsoever for increased business. When consideration is given to the revenue to be derived from increased business, it is apparent that there is no merit in petitioner's claim with reference to inability to secure additional bonds from the trustee. Whether petitioner should look to the issue of additional bonds rather than to junior financing at the present time, is a question on which it is not now necessary to express an opinion.

While the Commission is confident that the rates herein established will yield petitioner a reasonable return, the Commission stands ready, in case a fair trial of the rates proves unsatisfactory, to make the necessary readjustments promptly.

ORDER ON PETITION FOR REHEARING.

San Joaquin Light and Power Corporation having filed a petition for rehearing in the above entitled proceedings, and careful consideration having been given to said petition, the Railroad Commission hereby makes the following findings of fact:

(1) The Railroad Commission finds that the rates, rules, regulations, contracts and practices of the San Joaquin Light and Power Corporation are unjust and unreasonable in so far as they differ from the rates, rules, regulations, contracts and practices herein established.

(2) The Railroad Commission hereby finds that the rates, rules, regulations, contracts and practices herein established are just and reasonable rates, rules, regulations, contracts and practices.

Basing its order on the foregoing findings of fact, and each statement of fact which is contained in the opinion of April 6, 1916, herein, and in the opinion which precedes this order,

It is hereby ordered as follows:

1. San Joaquin Light and Power Corporation is hereby ordered to establish and file with the Railroad Commission on or before May 1, 1916, the following rates for the respective classes of service specified, which rates are found to be just and reasonable rates:

SCHEDULE No. 1.

General Domestic Lighting Rate.

Metered Service.

Applicable to domestic and small commercial lighting, heating and power installations of less than five kilowatt capacity.

First 20 kilowatt hours per month, per meter, 8 cents per kilowatt hour.

Over 20 kilowatt hours per month, per meter, 4 cents per kilowatt hour.

Minimum monthly charge, 75 cents per meter.

SCHEDULE No. 2.

General Commercial Lighting Rate.

Metered Service.

Applicable to all commercial, industrial, sign outline and other lighting installations and to small power and appliances used in connection with lighting service.

\$2.25 per month per kilowatt of measured maximum demand, to which charge shall be added an energy charge of one (1) cent per metered kilowatt hour for all electric energy consumed.

Minimum monthly bill, \$2.50.

Watt demand indicators and watt-hour meters will in all cases be installed and maintained by the company at its own expense under this rate.

SCHEDULE No. 3.

Public Outdoor Lighting Service.

Flat Rate.

This schedule of rates is applicable to all street, highway and other public outdoor lighting, and includes installation, maintenance, operation and lamp renewals necessary for such service.

1. 6.6 ampere luminous arc lamps:

\$36.40 per lamp per year, plus 50 cents per 100 lamp hours.

2. 4 ampere luminous arc lamps:

\$33.00 per lamp per year, plus 45 cents per 100 lamp hours.

3. 600 candle power series and 400-watt multiple incandescent lamps:

\$29.50 per lamp per year, plus 60 cents per 100 lamp hours.

4. 400 candle power series and 250-watt multiple incandescent lamps :
\$27.00 per lamp per year, plus 40 cents per 100 lamp hours.
5. 250 candle power series and 150-watt multiple incandescent lamps :
\$23.00 per lamp per year, plus 30 cents per 100 lamp hours.
6. 100 candle power series and 80-watt multiple incandescent lamps :
\$16.20 per lamp per year, plus 15 cents per 100 lamp hours.
7. 80 candle power series and 60-watt multiple incandescent lamps :
\$13.40 per lamp per year, plus 10 cents per 100 lamp hours.
8. 60 candle power series and 40-watt multiple incandescent lamps :
\$11.50 per lamp per year, plus 8 cents per 100 lamp hours.

All night lamps will be considered as burning 4,000 hours per year.

Where the company is required to provide ornamental lighting posts or standards, an additional charge will be made.

SCHEDULE No. 4.

Agricultural Service.

Contract Flat Rates.

Applicable to all agricultural or rural power and other service limited only by the demand upon the company's system. Service will normally be supplied at 110 or 220 volts.

One month's continuous service -----	\$7.00 per horsepower
Two months' continuous service -----	12.15 per horsepower
Three months' continuous service -----	16.45 per horsepower
Four months' continuous service -----	20.25 per horsepower
Five months' continuous service -----	23.65 per horsepower
Six months' continuous service -----	26.80 per horsepower
Seven months' continuous service -----	29.75 per horsepower
Eight months' continuous service -----	32.50 per horsepower
Nine months' continuous service -----	35.10 per horsepower
Ten months' continuous service -----	37.60 per horsepower
Eleven months' continuous service -----	40.00 per horsepower
Twelve months' continuous service -----	42.30 per horsepower

The above flat rates are based upon the connected load in motors or other utilization equipment which can be connected at any one time to the company's supply system. Under normal conditions meters will not be installed by the company on strictly flat-rate business, but at the consumer's request demand indicating and watt-hour meters will be supplied at a charge of \$7.50 per year or fraction thereof, and the flat-rate charges per horsepower of connected load will be readjusted on the basis of 94 per cent demand factor.

The minimum bill under these rates for an installation less than one horsepower will be the flat rate for one horsepower.

SCHEDULE No. 5.

Agricultural Service.

Noncontract Flat Rates.

Applicable to all agricultural or rural power and other service limited only by the demand upon the company's system. Service will normally be supplied at 110 or 220 volts.

First month's service -----	\$7.00 per horsepower
Second month's service -----	5.15 per horsepower
Third month's service -----	4.30 per horsepower
Fourth month's service -----	3.80 per horsepower
Fifth month's service -----	3.40 per horsepower
Sixth month's service -----	3.15 per horsepower

Seventh month's service	2.95 per horsepower
Eighth month's service	2.75 per horsepower
Ninth month's service	2.60 per horsepower
Tenth month's service	2.50 per horsepower
Eleventh month's service	2.40 per horsepower
Twelfth month's service	2.30 per horsepower

The consumer taking service under these rates will be required to pay for the cost of the initial service connection and also the cost of any subsequent disconnections or reconnections made at his request.

The above flat rates are based upon the connected load in motors or other utilization equipment which can be connected at any one time to the company's supply system. Under normal conditions meters will not be installed by the company on strictly flat-rate business, but at the consumer's request demand indicating and watt-hour meters will be supplied at a charge of \$7.50 per year or fraction thereof, and the flat-rate charges per horsepower of connected load will be readjusted on the basis of 94 per cent demand factor. The minimum bill under these rates for an installation less than one horsepower will be the flat rate for one horsepower.

SCHEDULE No. 6.

Agricultural Service.

Meter Rates.

Applicable to all agricultural or rural power and other service limited only by the demand upon the company's system. Service will normally be supplied at 110 or 220 volts.

Contract Basis.

Demand charge for one month's continuous service	\$4.50 per horsepower
Demand charge for two months' continuous service	7.50 per horsepower
Demand charge for three months' continuous service	9.80 per horsepower
Demand charge for four months' continuous service	11.75 per horsepower
Demand charge for five months' continuous service	13.45 per horsepower
Demand charge for six months' continuous service	15.00 per horsepower
Demand charge for seven months' continuous service	16.40 per horsepower
Demand charge for eight months' continuous service	17.70 per horsepower
Demand charge for nine months' continuous service	18.90 per horsepower
Demand charge for ten months' continuous service	20.00 per horsepower
Demand charge for eleven months' continuous service	21.05 per horsepower
Demand charge for twelve months' continuous service	22.05 per horsepower

To the demand charge, which is payable in equal monthly installments, shall be added the following energy charges:

Energy charge 5 mills per kilowatt hour.

Noncontract Basis.

Demand charge for first month's service	\$4.50 per horsepower
Demand charge for second month's service	3.00 per horsepower
Demand charge for third month's service	2.30 per horsepower
Demand charge for fourth month's service	1.95 per horsepower
Demand charge for fifth month's service	1.70 per horsepower
Demand charge for sixth month's service	1.55 per horsepower
Demand charge for seventh month's service	1.40 per horsepower
Demand charge for eighth month's service	1.30 per horsepower
Demand charge for ninth month's service	1.20 per horsepower
Demand charge for tenth month's service	1.10 per horsepower
Demand charge for eleventh month's service	1.05 per horsepower
Demand charge for twelfth month's service	1.00 per horsepower

To the demand charge shall be added the following energy charge:

Energy charge, 5 mills per kilowatt hour.

The consumer taking service under noncontract rates will be required to pay for the cost of the initial service connection, and also the cost of any subsequent disconnections or reconnections made at his request.

The demand charges under this schedule are based on the connected load in motors or other utilization equipment which can be connected at any one time to the company's supply system, and the meters regularly supplied are of the recording watt-hour type. At the consumer's request, however, the company will furnish and install demand indicating instruments at a rate of \$3.00 per year or fraction thereof, and base the demand charge upon the measured monthly maximum demand, in which case the demand charges will be readjusted on the basis of 94 per cent demand factor.

The minimum bill for an installation less than one horsepower will be the demand charge for one horsepower.

SCHEDULE No. 7.

Special Oil Fields Rate.

Metered Service.

Applicable to all power service supplied for or in connection with the development and operation of oil wells or oil production equipment.

Service will be furnished either at 220 or 440 volts.

\$2.75 per month per kilowatt of maximum demand, to which charge shall be added an energy charge of one-half ($\frac{1}{2}$) cent per kilowatt hour for all electric energy supplied.

Under this rate demand indicators and watt-hour meters will in all cases be installed and maintained by the company at the point of delivery.

SCHEDULE No. 8.

General Power Rate.

Metered Service.

Applicable to all industrial, commercial and other power installations of not more than twenty (20) horsepower installed capacity receiving energy at 110 or 220 volts at the consumer's option. Single-phase, two-phase or three-phase service at option of company.

4 cents per kilowatt hour for first 200 kilowatt hours consumed during any month.

2 cents per kilowatt hour for all energy used during any month in excess of 200 kilowatt hours.

Minimum monthly charge, \$1.00 per horsepower connected.

Minimum monthly bill, \$1.00.

SCHEDULE No. 9.

Industrial Power Rates.

Metered Service.

Applicable to all classes of power installations not otherwise specifically provided for in separate schedules.

Installations of not more than 20 horsepower—\$1.50 per month per horsepower connected, to which charge shall be added an energy charge of one-half ($\frac{1}{2}$) cent per kilowatt hour for all electric energy supplied.

Minimum monthly bill, \$5.00.

Installations in excess of 20 horsepower—\$2.50 per month per kilowatt of measured maximum demand, to which charge shall be added an energy charge of four-tenths of one cent (4 mills) per kilowatt hour for all energy supplied.

Minimum monthly bill, \$20.00.

On small installations where the demand charge is based on the connected load ordinary recording watt-hour meters are regularly supplied by the company. At the

consumer's request, however, demand indicating instruments will be supplied at an additional charge of 25 cents per month, in which case the rate will be based on the measured monthly maximum demand and the demand charge will be readjusted on the basis of 79 per cent demand factor.

SCHEDULE No. 10.

Substation Service Rate.

Metered Service.

Applicable to large consumers receiving energy directly from the company's substations.

\$2.70 per month per kilowatt of measured maximum demand to which charge should be added an energy charge of one-quarter ($\frac{1}{4}$) cent per kilowatt hour for all electric energy supplied.

Annual minimum charge from existing substations, \$12.00 per kilowatt, payable \$1.00 per kilowatt monthly.

Under this rate, watt demand indicators, graphic recording meters, or other demand indicating or recording instruments and watt-hour meters will in all cases be installed and maintained by the company at the point of delivery.

SCHEDULE No. 11.

Transmission Service Rate.

Metered Service.

Applicable to large consumers receiving energy directly from the company's transmission lines at the transmission line voltage.

\$2.50 per month per kilowatt of measured maximum demand, to which charge shall be added an energy charge of two-tenths (2 mills) cent per kilowatt hour for all electric energy supplied.

Annual minimum charge—\$1,200.00, payable \$100.00 monthly. Under this rate watt demand indicators, graphic recording meters or other demand indicating or recording instruments and watt-hour meters will in all cases be installed and maintained by the company at the point of delivery.

SCHEDULE No. 12.

Special Power Service.

Meter Rate.

Applicable to the power service supplied by the company to the Fresno City Water Company of Fresno, California.

2 cents per kilowatt hour.

2. San Joaquin Light and Power Corporation is hereby ordered to prepare and file with the Railroad Commission on or before May 1, 1916, revised forms of agricultural power contracts complying with the directions contained in the opinion of April 6, 1916, in the above entitled proceedings.

3. San Joaquin Light and Power Corporation is hereby ordered to establish and file with the Railroad Commission on or before May 1, 1916, rules and regulations in accordance with the directions contained in the opinion of April 6, 1916, in the above entitled proceedings, including the following rules and regulations:

(a) *Application for Service.* The company will require each prospective consumer to sign an application in writing for service desired, such application setting forth the location of the premises to be served, the purposes for which the service is to be used, the schedule number under which applicant desires service, a description of the electrical equipment installed or to be installed, the name and address of the person responsible for the payment of the bills and the name and address of the owner of the premises.

(b) *Contracts.* Contracts will be required in the first instance for all agricultural and mining power service and for municipal street lighting. If a consumer selects a contract rate, he will be required to sign a contract for the period covered by the contract. All contracts will contain the following sentence:

“It is understood by and between the parties hereto that this agreement is subject at all times, after proceedings duly had, to change or abolition by the Railroad Commission of the State of California.”

(c) *Rates.* The rates to be charged by and paid to the company for electric energy and service shall be the rates legally in effect and on file with the Railroad Commission. Complete schedules of all rates legally in effect will be kept at all times in each of the company's local offices where they will be available for public inspection. Where there are two or more rates or schedules applicable to any class of noncontract service, the consumer, at the time he makes application to the company for service, must designate which rate or schedule he desires, and the rate or schedule so designated shall remain in effect until changed by thirty days' written notice by the consumer specifying which new rate or schedule is desired. The rates and minimum charges set forth in the effective rate schedules are based upon the load connected to the company's supply system through one meter. Where submeters or secondary meters are desired by the consumer, such meters will be charged for separately on the monthly rental basis.

(d) *Payment.* All rates are payable monthly.

(e) *Limitation of Demand.* Double throw switches or other approved demand limiting devices will be permitted to limit the demand which can be created at any one time on the company's supply system through the operation of the consumer's electrical equipment.

(f) *Meters.* All meters will be furnished and installed by the company at its own expense without any additional charge from the rates set forth in its effective rate schedules, except in cases where special metering facilities are desired by the consumer. All meters will be tested at the time of their installation and no meter will be placed in service or allowed to remain in service which has an error of registration

in excess of 2 per cent under the conditions of normal operation. Upon giving the company at least five days notice, the consumer shall have the right at any time to require the company to test his service meter in his presence, or, if he so desires, in the presence of an expert or other representative appointed by him; provided, however, that if special tests are required by the consumer oftener than once in six months, a reasonable charge shall be made for each such additional test.

4. The rates, rules, regulations and contracts herein established shall be effective May 1, 1916, except that the meter rates shall be applicable to the readings taken by San Joaquin Light and Power Corporation during the calendar month of May, 1916.

5. This order shall supersede the order of April 6, 1916, in the above entitled proceedings.

6. The petition for rehearing herein is hereby denied.

Dated at San Francisco, California, this 22d day of April, 1916.

DECISION No. 3278.

J. P. MELCHER ET AL.

vs.

MOUNT WHITNEY POWER AND ELECTRIC COMPANY.

Case No. 654.

A. C. ROSENTHAL ET AL.

vs.

MOUNT WHITNEY POWER AND ELECTRIC COMPANY.

Case No. 750.

IN THE MATTER OF THE APPLICATION OF MOUNT WHITNEY POWER AND ELECTRIC COMPANY FOR AN ORDER ESTABLISHING JUST AND REASONABLE RATES, RULES, REGULATIONS, CONTRACTS AND PRACTICES TO BE CHARGED AND OBSERVED BY SAID COMPANY.

Application No. 1673.

Decided April 22, 1916.

Defendant's petition for rehearing does not attack the Commission's findings as to values, rate of return or kindred items, merely contending that its present generating capacity is insufficient to supply business large enough to provide the return figured by the Commission, and it appearing that there is at present 22,000 horsepower of gas engines operating within a radius of one mile of defendant's transmission lines, the majority of which could be turned to electric power under the schedules established by the Commission, together with the normal increase in business which can be reasonably expected to occur, such contention, can not be considered as warranting alterations in the schedule heretofore established, especially as good business judgment requires that defendant step out and acquire all additional business offered.

Defendant's petition also suggests certain minor changes in wording and elaboration of rates, rules and regulations, most of which are considered meritorious and complied with, which, together with the establishment of certain additional rates covering combined classes of domestic service, the entire schedules and rules are made effective May 1, 1916. Petition for rehearing denied.

REPORT OF THE COMMISSION.

OPINION ON PETITION FOR REHEARING.

Mount Whitney Power and Electric Company has filed a petition for rehearing in the above entitled proceedings.

In this petition the Mount Whitney company in no way challenges the fairness or reasonableness of this Commission's findings as to the fair value of the company's property or the rate of return thereon or the reasonableness of the amounts allowed for operating expenses or for depreciation.

The Mount Whitney company alleges that the revenue to be derived from the amount of electric energy which can be generated in the company's present generating system will not be sufficient to enable the company to secure the net income which the Railroad Commission found to be reasonable. At the present time, over 22,000 horsepower of gas engines are installed within a mile on either side of the Mount Whitney company's distributing lines. It is conceded that under the reduced rates for agricultural power herein established, the Mount Whitney company will be able to secure a large amount of this business. It must also be assumed that the Mount Whitney company will have at least a normal increase in its business for other classes of service. While it is true that the large amount of additional business which the Mount Whitney company will undoubtedly secure under the rates herein established will necessitate the procurement by the Mount Whitney company of a considerable amount of additional electric energy, either through the installation of additional generating capacity, or otherwise, we assume that the Mount Whitney company will, in the exercise of good business judgment, take the steps necessary to secure the largely increased business which is at hand and which will no doubt redound materially to the permanent advantage of the Mount Whitney company.

The Mount Whitney company has made certain suggestions with reference to changes in the form and language of the rate schedules and rules and regulations herein prescribed. These suggestions are nearly all meritorious and most of them will be embodied in the order herein.

It appears that the Mount Whitney company is beginning to develop mining power business, and the company asks that a separate schedule for this class of business be established. Schedule No. 8, for industrial power, is applicable to this class of business. The Commission does not at the present time have available sufficient information to enable it to establish a separate schedule for mining power business. However, if

special conditions develop in connection with this class of business, the Mount Whitney company may draw them to the Commission's attention, with a view to the establishment of a separate schedule for this class of business.

The Mount Whitney company also asks this Commission to establish a separate schedule for combination lighting, cooking and heating service for residence purposes and for heating only. Such schedule will be established and will appear in the order herein as Schedule No. 11.

Some suggestion has been made by the San Joaquin Light and Power Corporation that agricultural power business for one and two months may be undesirable business from the point of view of the system peak load. The Commission is suggesting to the Mount Whitney company and the San Joaquin corporation that if either company concludes, on reflection, that this class of business is undesirable, the Commission will permit the filing of schedules eliminating this class of service.

The Mount Whitney company also asks that such order as may be rendered herein shall be made effective on the first day of a calendar month, with the exception that the meter rates shall apply to the readings taken in the calendar month in which the decision as to such rates becomes effective. This request is reasonable and will be granted.

While the Commission is confident that the rates herein established will yield petitioner a reasonable return, the Commission stands ready, in case a fair trial of the rates proves unsatisfactory, to make the necessary readjustments promptly.

ORDER ON PETITION FOR REHEARING.

Mount Whitney Power and Electric Company having filed a petition for rehearing in the above entitled proceedings, and careful consideration having been given to said petition, the Railroad Commission hereby makes the following findings of fact:

(1) The Railroad Commission finds that the rates, rules, regulations, contracts and practices of the Mount Whitney Power and Electric Company are unjust and unreasonable in so far as they differ from the rates, rules, regulations, contracts and practices herein established.

(2) The Railroad Commission hereby finds that the rates, rules, regulations, contracts and practices herein established are just and reasonable rates, rules, regulations, contracts and practices.

Basing its order on the foregoing findings of fact and on each statement of fact which is contained in the opinion of April 6, 1916, herein, and in the opinion which precedes this order,

It is hereby ordered as follows:

1. Mount Whitney Power and Electric Company is hereby ordered to establish and file with the Railroad Commission on or before May 1,

1916, the following rates for the respective classes of service specified, which rates are found to be just and reasonable rates:

SCHEDULE No. 1.

General Domestic Lighting Rate.

Metered Service.

Applicable to domestic and small commercial lighting, heating and power installations of less than five kilowatt capacity.

First 20 kilowatt hours per month, per meter, 8 cents per kilowatt hour.

Over 20 kilowatt hours per month, per meter, 4 cents per kilowatt hour.

Minimum monthly charge, 75 cents per meter.

SCHEDULE No. 2.

General Commercial Lighting Rate.

Metered Service.

Applicable to all commercial, industrial, sign outline and other lighting installations and to small power and appliances used in connection with lighting service.

\$2.25 per month per kilowatt of measured maximum demand, to which charge shall be added an energy charge of one (1) cent per metered kilowatt hour for all electric energy consumed.

Minimum monthly bill, \$2.50.

Watt demand indicators and watt-hour meters will in all cases be installed and maintained by the company at its own expense under this rate.

SCHEDULE No. 3.

Public Outdoor Lighting Service.

Flat Rate.

This schedule of rates is applicable to all street, highway and other public outdoor lighting, and includes installation, maintenance, operation and lamp renewals necessary for such service.

1. 6.6 ampere luminous arc lamps:

\$36.40 per lamp per year, plus 50 cents per 100 lamp hours.

2. 4 ampere luminous arc lamps:

\$33.00 per lamp per year, plus 45 cents per 100 lamp hours.

3. 600 candle power series and 400-watt multiple incandescent lamps:

\$29.50 per lamp per year, plus 60 cents per 100 lamp hours.

4. 400 candle power series and 200-watt multiple incandescent lamps:

\$27.00 per lamp per year, plus 40 cents per 100 lamp hours.

5. 250 candle power series and 150-watt multiple incandescent lamps:

\$23.00 per lamp per year, plus 30 cents per 100 lamp hours.

6. 100 candle power series and 80-watt multiple incandescent lamps:

\$16.20 per lamp per year, plus 15 cents per 100 lamp hours.

7. 80 candle power series and 60-watt multiple incandescent lamps:

\$13.40 per lamp per year, plus 10 cents per 100 lamp hours.

8. 60 candle power series and 40-watt multiple incandescent lamps:

\$11.50 per lamp per year, plus 8 cents per 100 lamp hours.

All night lamps will be considered as burning 4,000 hours per year.

Where the company is required to provide ornamental lighting posts or standards, an additional charge will be made.

SCHEDULE No. 4.**Agricultural Service.***Contract Flat Rates.*

Applicable to all agricultural or rural power and other service limited only by the demand upon the company's system. Service will normally be supplied at 110 or 220 volts.

One month's continuous service	\$7.00 per horsepower
Two months' continuous service	12.15 per horsepower
Three months' continuous service	16.45 per horsepower
Four months' continuous service	20.25 per horsepower
Five months' continuous service	23.65 per horsepower
Six months' continuous service	26.80 per horsepower
Seven months' continuous service	29.75 per horsepower
Eight months' continuous service	32.50 per horsepower
Nine months' continuous service	35.10 per horsepower
Ten months' continuous service	37.60 per horsepower
Eleven months' continuous service	40.00 per horsepower
Twelve months' continuous service	42.30 per horsepower

The above flat rates are based upon the connected load in motors or other utilization equipment which can be connected at any one time to the company's supply system. Under normal conditions meters will not be installed by the company on strictly flat-rate business, but at the consumer's request demand indicating and watt-hour meters will be supplied at a charge of \$7.50 per year or fraction thereof, and the flat-rate charges per horsepower of connected load will be readjusted on the basis of 94 per cent demand factor.

The minimum bill under these rates for an installation less than one horsepower will be the flat rate for one horsepower.

SCHEDULE No. 5.**Agricultural Service.***Noncontract Flat Rates.*

Applicable to all agricultural or rural power and other service limited only by the demand upon the company's system. Service will normally be supplied at 110 or 220 volts.

First month's service	\$7.00 per horsepower
Second month's service	5.15 per horsepower
Third month's service	4.30 per horsepower
Fourth month's service	3.80 per horsepower
Fifth month's service	3.40 per horsepower
Sixth month's service	3.15 per horsepower
Seventh month's service	2.95 per horsepower
Eighth month's service	2.75 per horsepower
Ninth month's service	2.60 per horsepower
Tenth month's service	2.50 per horsepower
Eleventh month's service	2.40 per horsepower
Twelfth month's service	2.30 per horsepower

The consumer taking service under these rates will be required to pay for the cost of the initial service connection and also the cost of any subsequent disconnections or reconnections made at his request.

The above flat rates are based upon the connected load in motors or other utilization equipment which can be connected at any one time to the company's supply system. Under normal conditions meters will not be installed by the company on strictly flat-rate business, but at the consumer's request demand indicating and watt-

hour meters will be supplied at a charge of \$7.50 per year or fraction thereof, and the flat-rate charges per horsepower of connected load will be readjusted on the basis of 94 per cent demand factor. The minimum bill under these rates for an installation less than one horsepower will be the flat rate for one horsepower.

SCHEDULE No. 6.

Agricultural Service.

Meter Rates.

Applicable to all agricultural or rural power and other service limited only by the demand upon the company's system. Service will normally be supplied at 110 or 220 volts.

Contract Basis.

Demand charge for one month's continuous service	\$4.50 per horsepower
Demand charge for two months' continuous service	7.50 per horsepower
Demand charge for three months' continuous service	9.80 per horsepower
Demand charge for four months' continuous service	11.75 per horsepower
Demand charge for five months' continuous service	13.45 per horsepower
Demand charge for six months' continuous service	15.00 per horsepower
Demand charge for seven months' continuous service	16.40 per horsepower
Demand charge for eight months' continuous service	17.70 per horsepower
Demand charge for nine months' continuous service	18.90 per horsepower
Demand charge for ten months' continuous service	20.00 per horsepower
Demand charge for eleven months' continuous service	21.05 per horsepower
Demand charge for twelve months' continuous service	22.05 per horsepower

To the demand charge, which is payable in equal monthly installments, shall be added the following energy charges:

Energy charge 5 mills per kilowatt hour.

Noncontract Basis.

Demand charge for first month's service	\$4.50 per horsepower
Demand charge for second month's service	3.00 per horsepower
Demand charge for third month's service	2.30 per horsepower
Demand charge for fourth month's service	1.95 per horsepower
Demand charge for fifth month's service	1.70 per horsepower
Demand charge for sixth month's service	1.55 per horsepower
Demand charge for seventh month's service	1.40 per horsepower
Demand charge for eighth month's service	1.30 per horsepower
Demand charge for ninth month's service	1.20 per horsepower
Demand charge for tenth month's service	1.10 per horsepower
Demand charge for eleventh month's service	1.05 per horsepower
Demand charge for twelfth month's service	1.00 per horsepower

To the demand charge shall be added the following energy charge:

Energy charge, 5 mills per kilowatt hour.

The consumer taking service under noncontract rates will be required to pay for the cost of the initial service connection, and also the cost of any subsequent disconnections or reconnections made at his request.

The demand charges under this schedule are based on the connected load in motors or other utilization equipment which can be connected at any one time to the company's supply system, and the meters regularly supplied are of the recording watt-hour type. At the consumer's request, however, the company will furnish and install demand indicating instruments at a rate of \$3.00 per year or fraction thereof, and base the demand charge upon the measured monthly maximum demand, in which case the demand charges will be readjusted on the basis of 94 per cent demand factor.

The minimum bill for an installation less than one horsepower will be the demand charge for one horsepower.

SCHEDULE No. 7.**General Power Rate.***Metered Service.*

Applicable to all industrial, commercial and other power installations of not more than twenty (20) horsepower installed capacity receiving energy at 110 or 220 volts at the consumer's option. Single-phase, two-phase or three-phase service at option of company.

4 cents per kilowatt hour for first 200 kilowatt hours consumed during any month.

2 cents per kilowatt hour for all energy used during any month in excess of 200 kilowatt hours.

Minimum monthly charge, \$1.00 per horsepower connected.

Minimum monthly bill, \$1.00.

SCHEDULE No. 8.**Industrial Power Rates.***Metered Service.*

Applicable to all classes of power installations not otherwise specifically provided for in separate schedules.

Installations of not more than 20 horsepower—\$1.50 per month per horsepower connected, to which charge shall be added an energy charge of one-half ($\frac{1}{2}$) cent per kilowatt hour for all electric energy supplied.

Minimum monthly bill, \$5.00.

Installations in excess of 20 horsepower—\$2.50 per month per kilowatt of measured maximum demand, to which charge shall be added an energy charge of four-tenths of one cent (4 mills) per kilowatt hour for all energy supplied.

Minimum monthly bill, \$20.00.

On small installations where the demand charge is based on the connected load ordinary recording watt-hour meters are regularly supplied by the company. At the consumer's request, however, demand indicating instruments will be supplied at an additional charge of 25 cents per month, in which case the rate will be based on the measured monthly maximum demand and the demand charge will be readjusted on the basis of 79 per cent demand factor.

SCHEDULE No. 9.**Substation Service Rate.***Metered Service.*

Applicable to large consumers receiving energy directly from the company's substations.

\$2.70 per month per kilowatt of measured maximum demand to which charge should be added an energy charge of one-quarter ($\frac{1}{4}$) cent per kilowatt hour for all electric energy supplied.

Annual minimum charge from existing substations, \$12.00 per kilowatt, payable \$1.00 per kilowatt monthly.

Under this rate, watt-demand indicators, graphic recording meters, or other demand indicating or recording instruments and watt-hour meters will in all cases be installed and maintained by the company at the point of delivery.

SCHEDULE No. 10.

Transmission Service Rate.*Metered Service.*

Applicable to large consumers receiving energy directly from the company's transmission lines at the transmission line voltage.

\$2.50 per month per kilowatt of measured maximum demand, to which charge shall be added an energy charge of two-tenths (2 mills) cent per kilowatt hour for all electric energy supplied.

Annual minimum charge—\$1,200.00, payable \$100.00 monthly. Under this rate watt demand indicators, graphic recording meters or other demand indicating or recording instruments and watt-hour meters will in all cases be installed and maintained by the company at the point of delivery.

SCHEDULE No. 11.

Combination Lighting, Cooking and Heating Service.*Meter Rate.*

Applicable to lighting, cooking and heating where the rated capacity in cooking accessory equipment equals or exceeds 5 kilowatts.

First 20 kilowatt hours per month per meter ----- 8 cents per kilowatt hour

Next 150 kilowatt hours per month per meter ----- 3 cents per kilowatt hour

Over 170 kilowatt hours per month per meter ----- 1 cent per kilowatt hour

Minimum monthly charge, \$2.00 per meter.

Where lighting service is not required under the schedule, the first block at 8 cents per kilowatt hour will be eliminated and the 3 cent rate will apply to the first 150 kilowatt hours with 1 cent per kilowatt hour for all energy consumed in any month in excess of 150 kilowatt hours. This latter schedule will also apply where heating service only is furnished in case the rated capacity of such equipment is not less than five kilowatts. Minimum monthly bill in any event shall be \$2.00 per meter.

SCHEDULE No. 12.

Special Street Lighting Service.

Applicable to special street lighting service in city of Lindsay where the company furnishes ornamental posts in addition to regularly supplied street lighting facilities.

\$52.00 per lamp per year.

2. Mount Whitney Power and Electric Company is hereby ordered to prepare and file with the Railroad Commission on or before May 1, 1916, revised forms of agricultural power contracts complying with the directions contained in the opinion of April 6, 1916, in the above entitled proceedings.

3. Mount Whitney Power and Electric Company is hereby ordered to establish and file with the Railroad Commission on or before May 1, 1916, rules and regulations in accordance with the directions contained in the opinion of April 6, 1916, in the above entitled proceedings, including the following rules and regulations:

(a) *Application for Service.* The company will require each prospective consumer to sign an application in writing for the service desired, such application setting forth the location of the premises to be served, the purpose for which the service is to be used, the schedule number under which applicant desires service, a description of the electrical

equipment installed or to be installed, the name and address of the person responsible for the payment of the bills and the name and address of the owner of the premises.

(b) *Contracts.* Contracts will be required in the first instance for all agricultural and mining power service and for municipal street lighting. If a consumer selects a contract rate, he will be required to sign a contract for the period covered by the contract. All contracts will contain the following sentence:

“It is understood by and between the parties hereto that this agreement is subject at all times, after proceedings duly had, to change or abolition by the Railroad Commission of the State of California.”

(c) *Rates.* The rates to be charged by and paid to the company for electric energy and service shall be the rates legally in effect and on file with the Railroad Commission. Complete schedules of all rates legally in effect will be kept at all times in each of the company's local offices where they will be available for public inspection. Where there are two or more rates or schedules applicable to any class of noncontract service, the consumer, at the time he makes application to the company for service, must designate which rate or schedule he desires, and the rate or schedule so designated shall remain in effect until changed by thirty days' written notice by the consumer specifying which new rate or schedule is desired. The rates and minimum charges set forth in the effective rate schedules are based upon the load connected to the company's supply system through one meter. Where submeters or secondary meters are desired by the consumer, such meters will be charged for separately on the monthly rental basis.

(d) *Payment.* All rates are payable monthly.

(e) *Limitation of Demand.* Double throw switches or other approved demand limiting devices will be permitted to limit the demand which can be created at any one time on the company's supply system through the operation of the consumer's electrical equipment.

(f) *Meters.* All meters will be furnished and installed by the company at its own expense without any additional charge from the rates set forth in its effective rate schedules, except in cases where special metering facilities are desired by the consumer. All meters will be tested at the time of their installation and no meter will be placed in service or allowed to remain in service which has an error of registration in excess of 2 per cent under the conditions of normal operation. Upon giving the company at least five days notice, the consumer shall have the right at any time to require the company to test his service meter in his presence, or, if he so desires, in the presence of an expert or other representative appointed by him; provided, however, that if special

tests are required by the consumer oftener than once in six months, a reasonable charge shall be made for each such additional test.

4. The rates, rules, regulations and contracts herein established shall be effective May 1, 1916, except that the meter rates shall be applicable to the readings taken by Mount Whitney Power and Electric Company during the calendar month of May, 1916.

5. This order shall supersede the order of April 6, 1916, in the above entitled proceedings.

6. The petition for rehearing herein is hereby denied.

Dated at San Francisco, California, this 22d day of April, 1916.

DECISION No. 3279.

IN THE MATTER OF THE APPLICATION OF DICKINSON-NELSON COMPANY FOR PERMISSION TO INCREASE CERTAIN WAREHOUSE RATES, AND TO DECREASE OTHERS.

Application No. 2087.

Decided April 22, 1916.

Applicant, upon a showing that its present rates for the storage of hay are inadequate, is authorized to put into effect for the season beginning June 1, 1916, the following rates for the storage and handling of hay: Storage, first season, three, four and five-wire bales, \$1.25 per ton; second season or portion thereof, \$1.00 per ton; unloading from cars, 25 cents per ton.

John A. Wilson, for Applicant.

John W. Galway, *in propria persona*, Protestant.

REPORT OF THE COMMISSION.

This is an application by Dickinson-Nelson Company, a corporation organized and existing under the laws of the State of California, for permission to increase certain of its warehouse rates, and to reduce others, as hereinafter set forth, and to establish certain charges for unloading hay from cars, and for delivering hay outside of the warehouse premises.

A public hearing was held at Stockton on March 14, 1916. From the evidence it appears that applicant is a close corporation engaged in the business of buying and selling hay, grain, feed, mill stuffs and other products, and conducting a warehouse business in the city of Stockton and in the town of Romain, Stanislaus County.

Applicant owns in the city of Stockton a corrugated iron grain warehouse of approximately 3,000 tons capacity and a hay warehouse of from 4,000 to 5,000 tons capacity, and in the town of Romain a corrugated iron grain warehouse of approximately 2,500 tons capacity.

Applicant's present rates lawfully filed with this Commission are as follows:

Storage Rates.

Grain, minimum charge (including two months storage) -----	\$0.50 per ton
Grain, first three months -----	.75 per ton
Grain, for a period over three months and to the end of the season (extra charge for sacks, if any are used, in resacking) -----	1.00 per ton
Beans, minimum charge for first month -----	.50 per ton
Beans, first two months -----	.75 per ton
Beans, first three months and to end of the season -----	1.00 per ton
Bags, empty, in bales, per month -----	.10 per bale
Wool, per month -----	.10 per bale
Potatoes or onions, first month -----	.03 per sack
Potatoes or onions, for each succeeding month after the first -----	.01 per sack
Straw, for one season or any portion thereof, beginning June 1st and ending May 31st of the succeeding year -----	.10 per bale
Hay, for one season or any portion thereof—	
Three-wire bale -----	1.25 per ton
Four-wire bale -----	1.00 per ton
Five-wire bale -----	1.25 per ton

Transfer Rates.

Grain, transferred and weighed ex cars or boat -----	\$.15 per ton
(On receipt of grain ex car or boat notice must accompany arrival of commodity, stating whether for storage or transfer. If for transfer, 10 days time is allowed, which is covered by the charge of 15 cents per ton.)	
Grain, transferred and weighed ex team -----	.25 per ton
(On the receipt of grain per team, 3 days after the first delivery is made, notice must be given whether it is intended for transfer or storage. If for transfer, shipping orders must be given at the expiration of 3 days.)	
Potatoes or onions, transfer 10 days -----	.01½ per sack
Delivery charge on potatoes or onions.	
(A special charge of 25 cents for each delivery ex warehouse to team is made on lots less than carload.)	

Applicant desires to change its rates as follows:

First, to raise the rate for hay in four-wire bales from \$1.00 to \$1.25 per ton per season or part thereof, and to reduce the rates for three and five-wire bales for the second season and each succeeding season or part thereof from \$1.25 to \$1.00 per ton, so that the charges will be uniform for hay whether baled with three, four or five wires.

Second, to establish the following additional charges for the handling of hay:

For unloading hay from cars prior to storing in warehouse, per ton -----	\$.25
For delivering in Stockton hay stored, other than to cars or to teams at hay warehouse, per ton -----	.25
For delivering hay stored in warehouse and putting same in the loft of of any building in Stockton, per ton -----	.50

Applicant has been charging its customers the above rates for the handling of hay, but has never filed the same with this Commission. As to the delivering of hay throughout the city such service can not, in

our opinion, properly be considered as a part of applicant's public utility business, and accordingly this Commission has no jurisdiction over applicant's charges for such service.

No grain is delivered outside of applicant's warehouse, and no extra charge is made for unloading grain from cars or for unloading either grain or hay from wagons or for delivering either grain or hay to wagons upon applicant's premises.

The reason applicant charges for the unloading of hay from cars is that it has to transfer the same to wagons and then haul it into the warehouse. According to the testimony all of the above mentioned transfer rates are based approximately upon the actual cost to applicant for labor and teams in transferring the commodities, and even according to the protestant's evidence applicant can not be expected to make any material profits upon these charges.

The reason for applicant having in the past charged more for the storage of three and five-wire bales than for the storage of four-wire bales was that, according to its testimony, there is a great deal of breakage and consequent additional expense in the handling of three-wire bales, while the hay in five-wire bales is, as a rule, packed so much looser than in four-wire bales that it requires considerable more space for storage. On the other hand, applicant has been subjected to considerable criticism and to charges of discrimination by those who wish to have their hay baled in five-wire bales, and it seems to us that on the whole it is better to make the charges uniform for all styles of bales. We also feel it is only fair to charge less for the second year's storage than for the first, owing to saving in the cost of handling.

Applicant has submitted a statement which shows that the hay received for storage in three and five-wire bales as compared with four-wire bales was, for the last three years, as follows:

Year	3 and 5-wire bales (in tons)	4-wire bales (in tons)
1913	785	881
1914	1,598	1,633
1915	1,606	544

The statement further shows that if the rates requested in this application had been in force during the last three years applicant would have received on an average \$255.00 more per year for the storage of hay in four-wire bales, while its average annual revenue from the second year storage of three and five-wire bales would have decreased \$105.00, making a net yearly gain in applicant's storage charges for hay of \$150.00.

Applicant does not keep its public utility business separate from its commercial business and, accordingly, it is very difficult to ascertain from its accounts whether applicant's warehouse business is now making interest upon its investment or not. Applicant's officers apparently did not themselves know; but from all the evidence we conclude that the granting of the application will not establish rates which are unreasonably high.

ORDER.

Dickinson-Nelson Company, a corporation, engaged in the warehouse business, having applied to the Railroad Commission for an order authorizing an increase in certain rates for storage of hay and the establishment of certain rates for deliveries outside of the warehouse premises, and a public hearing having been held upon said application and the matter having been submitted and being now ready for decision, the Commission hereby finds as a fact that the rates hereinafter authorized are just and reasonable rates to be charged by applicant. Basing its conclusions upon the foregoing findings and on the other findings which are contained in the opinion which precedes this order,

It is hereby ordered that applicant be and it is hereby authorized to charge and collect the following rates, viz:

For the storage of hay in three-wire, four-wire or five-wire bales, for the first season or portion thereof -----	\$1.25 per ton
For the second season and each succeeding season or portion thereof -----	1.00 per ton

The above charges include the unloading of hay from wagons on the warehouse premises and the delivery of the hay to wagons or cars at the warehouse.

It is further ordered that applicant be and it is hereby authorized to charge the following additional rates incidental to receiving or delivering commodities stored at its warehouse in Stockton:

For unloading hay from cars prior to storing in applicant's warehouse, per ton -----	25 cents
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It is hereby further ordered that the season for the storage of hay shall commence June 1st of each year and terminate May 31st of the following year.

The authority herein granted is granted subject to the following conditions and not otherwise, to wit:

1. Applicant must continue to render first-class service to the public.
2. The rates herein authorized for the storage of hay shall not become effective before June 1, 1916.
3. All other rates herein authorized shall become effective ten (10) days after Dickinson-Nelson Company shall have filed with this Commission, and shall have posted in a conspicuous place on its premises, a schedule of the new rates.

4. Applicant's rules and regulations now in force and on file with this Commission shall apply to rates herein authorized.

Dated at San Francisco, California, this 22d day of April, 1916.

DECISION No. 3280.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AUTHORITY TO INCREASE ITS CAPITAL STOCK AND TO ISSUE FIVE HUNDRED THOUSAND DOLLARS PAR VALUE OF PREFERRED STOCK.

Application No. 2097.

Decided April 24, 1916.

Applicant's amended application petitions for authorization to issue \$144,000.00 par value of its 7 per cent preferred stock, to be sold at not less than par; proceeds to be used for the purposes of discharging three certain promissory notes aggregating the sum of \$30,000.00, the balance to reimburse applicant's treasury for capital expenditures made. After a detailed review of applicant's present financial condition, application granted.

Sweet, Stearns & Forward, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

In this application, as amended, San Diego Consolidated Gas and Electric Company asks authority to issue \$144,000.00 par value of its 7 per cent preferred stock at not less than the par value thereof, and to increase its authorized capital stock from \$3,500,000.00 to \$6,000,000.00, as hereinafter set forth in detail. This Commission's consent is not necessary to the filing of articles of incorporation showing increased authorized common stock. The necessity of securing this Commission's consent is limited to the *issue* of capital stock.

In its original application herein, applicant requested authority to issue \$500,000.00 par value of 7 per cent preferred stock at the par value thereof, and to use the proceeds to pay \$356,000.00 face value of 10-year 6 per cent debentures due December 1, 1922; to pay notes in the sum of \$30,000.00 and to reimburse its treasury for moneys expended out of income to pay for the cost of extensions, additions and betterments in the amount of \$114,000.00.

Of the \$356,000.00 face value of debentures, \$106,000.00 were issued during 1913 at 95 per cent of their face value and accrued interest, and \$250,000.00 were issued during 1915 at 93 per cent of their face value and accrued interest. Applicant later concluded not to retire the debentures at this time and amended the application as heretofore indicated.

San Diego Consolidated Gas and Electric Company was incorporated on April 1, 1905, under the laws of the State of California. The Commission has at various times passed upon applications by this company for authority to issue securities. Decision No. 210, dated September 4, 1912 (Volume 1, Opinions and Orders of the Railroad Commission of California, page 491); Decision No. 453, dated February 11, 1913 (Volume 2, Opinions and Orders of the Railroad Commission of California, page 177); Decision No. 491, dated March 8, 1913 (Volume 2, Opinions and Orders of the Railroad Commission of California, page 264); Decision No. 761, dated June 30, 1913 (Volume 2, Opinions and Orders of the Railroad Commission of California, page 1095); Decision No. 785, dated July 10, 1913 (Volume 3, Opinions and Orders of the Railroad Commission of California, page 80); Decision No. 1939, dated November 13, 1914 (Volume 5, Opinions and Orders of the Railroad Commission of California, page 724).

In the last mentioned decision, applicant was authorized to issue \$250,000.00 face value of 6 per cent 10-year debentures due December 1, 1922, and \$240,000.00 par value of common stock. The debentures were to be issued at not less than 93 per cent of their face value plus accrued interest, and the common stock at not less than par.

Applicant owns and is engaged in the business of operating and managing a gas and electric plant in the city of San Diego and vicinity. Its business extends over territory of 600 square miles in the county of San Diego, including the cities of San Diego, East San Diego, Coronado, National City, La Mesa, Chula Vista and El Cajon.

In the annual report for the year ending December 31, 1915, the revenues and expenses of applicant's electric department are reported as follows:

Locality	Revenues	Expenses	Net revenues
San Diego	\$813,132 84	\$300,855 39	\$512,277 45
National City	14,525 25	7,808 91	6,716 34
La Mesa	5,073 36	6,746 14	*1,672 78
El Cajon	3,481 24	4,485 20	*1,003 96
East San Diego	17,358 97	11,933 20	5,425 77
Chula Vista	8,161 26	5,659 85	2,501 41
Territory outside incorporated cities...	63,260 64	35,331 95	27,928 69
Totals	\$924,993 56	\$372,820 64	\$552,172 92

*Loss.

The revenues and expenses of the gas department for the year ending December 31, 1915, are reported as follows:

Locality	Revenues	Expenses	Net revenues
San Diego	\$528,619 00	\$315,874 91	\$212,774 99
National City	14,629 76	11,341 51	3,288 22
La Mesa	6,374 98	8,139 37	*1,764 39
East San Diego	20,631 30	19,309 64	1,321 66
Coronado	30,936 39	16,762 79	14,173 60
Chula Vista	7,437 68	6,605 18	832 50
Territory outside incorporated cities...	16,816 94	16,031 85	785 09
Totals	\$625,476 05	\$391,065 28	\$231,410 77

*Loss.

Applicant's electric generating plant has a capacity of 12,470 kilowatts.

The following table is indicative of the growth of applicant's electric business:

Year	Current generated, kilowatt hours	Current sold, kilowatt hours	Loss, kilowatt hours	Number of consumers
Year ending December 31, 1913.....	18,931,466	13,009,713	5,921,753	17,199
Year ending December 31, 1914.....	20,847,915	16,000,401	4,847,514	18,600
Year ending December 31, 1915.....	27,114,691	20,144,781	6,969,910	19,028

Applicant's gas plant has a generating capacity of 4,875,000 cubic feet per 24 hours. Its storage holders have a capacity of 2,650,000 cubic feet. On December 31, 1915, the company owned 224.02 miles of high pressure mains and 219.47 miles of low pressure mains. The extent of applicant's gas business is indicated by the following table:

Year	Cubic feet generated	Cubic feet sold	Cubic feet loss	Number of consumers
Year ending December 31, 1913.....	733,293,000	605,779,400	127,513,600	20,348
Year ending December 31, 1914.....	760,641,000	617,917,700	142,136,300	21,466
Year ending December 31, 1915.....	783,184,000	655,902,400	127,281,600	21,462

Applicant has reported revenues and expenses to this Commission for the years ending December 31, 1913, 1914, and 1915, as follows:

Item	1915	1914	1913
Operating revenue	\$1,550,469 61	\$1,383,138 10	\$1,326,358 56
Operating expense, including depreciation	886,885 92	829,233 17	794,600 95
Net operating revenue	\$663,583 69	\$553,904 93	\$531,757 61
Non-operating revenue	739 99	705 58	1,383 13
Gross corporate income	\$664,323 68	\$554,610 51	\$533,140 74
Deductions from gross corporate income:			
Interest on funded debt	\$230,706 98	\$213,140 71	\$189,460 28
Other interest deductions	8,390 67	22,132 38	33,669 00
Amortization of debt discount and expense	18,743 61	17,539 41	8,973 54
Uncollectible bills	6,630 27	5,638 64	6,363 91
Total deductions	\$264,471 53	\$258,451 14	\$238,466 73
Profit from operations	\$399,852 15	\$296,159 37	\$294,674 01

The additions to and deductions from the corporate surplus account are shown by the following table:

Item	1915	1914	1913
Balance beginning of year	\$40,198 88	\$15,877 77	\$21,751 32
Additions during year:			
Profit from plant operation	399,852 15	296,159 37	294,674 01
Miscellaneous	1,175 53	161 74	-----
Total surplus before making any deductions	\$441,226 56	\$312,198 88	\$316,425 33
Deductions for year:			
Dividends on outstanding stock	\$291,500 00	\$271,500 00	\$237,562 50
Miscellaneous	45,579 70	500 00	62,985 06
Total deductions	\$337,079 70	\$272,000 00	\$300,547 56
Balance, end of year	\$104,146 86	\$40,198 88	\$15,877 77

On February 29, 1916, applicant reported assets and liabilities as follows:

<i>Assets.</i>		
Plant and franchise		\$1,980,454 94
Organization		22,319 61
Fixed capital		5,477,399 99
Electric department	\$3,116,022 16	
Gas department	2,361,377 83	
Cash		48,493 86
Bond interest deposited		106,650 00
Other deposits		150 00
Notes receivable		5,115 72
Accounts receivable		120,865 17
Materials and supplies		90,834 55
Prepaid expenses		2,856 84
Unamortized discount		711,626 04
Stock	\$326,600 00	
Bonds	385,026 04	
Other suspense		71,987 69
Total assets		\$8,638,754 41
<i>Liabilities.</i>		
Stock outstanding (common)		\$2,955,000 00
First mortgage bonds		4,266,000 00
Ten-year debentures (due December 1, 1922)		356,000 00
Notes payable		30,000 00
Accounts payable		224,871 30
Accounts with system corporation	\$102,584 82	
Audited vouchers and wages unpaid	90,509 11	
Consumers' deposits	31,348 03	
Miscellaneous accounts payable	429 34	
Interest accrued		111,990 00
Taxes accrued		20,039 26
Reserve for accrued depreciation		518,408 66
Premium on capital stock		24,000 00
Corporate surplus unappropriated		132,445 19
Total liabilities		\$8,638,754 41

From April 1, 1912, to February 29, 1916, applicant reports expenditures for extensions, additions and betterments in the sum of \$2,086,925.78.

During the same period, applicant was reimbursed in the following amounts:

Proceeds from sale of \$1,091,000.00 face value of bonds.....	\$982,555 00
Proceeds from sale of \$356,000.00 face value of debentures	333,200 00
Proceeds from sale of \$240,000.00 par value of common stock ..	264,000 00
Depreciation reserve invested in property	333,783 36
Total	\$1,913,538 36
Difference between construction expenditures and proceeds from sale of securities and depreciation reserve reinvested in property	\$173,387 42

The accumulated surplus of \$132,445.19, hereinbefore set forth is reported by applicant to have been reinvested in extensions, additions and betterments.

Applicant has an authorized capital stock issue of \$3,500,000.00, divided into 35,000 shares of the par value of \$100.00 each. Of said stock, \$500,000.00 par value is preferred and \$3,000,000.00 par value is common stock. Of the common stock, \$2,955,000.00 is outstanding. None of the preferred stock is outstanding at this time.

On April 6, 1905, San Diego Consolidated Gas and Electric Company had an authorized stock issue of \$1,500,000.00, divided into 15,000 shares of the par value of \$100.00 each. In 1909, the articles of incorporation were amended and the authorized capital stock was increased from \$1,500,000.00 to \$3,500,000.00, divided into 35,000 shares of the par value of \$100.00 each. Of said stock, 10,000 shares were common and 25,000 shares preferred. In March, 1912, the articles of incorporation were again amended so as to provide for an authorized stock issue of \$3,500,000.00, divided into \$3,000,000.00 of common and \$500,000.00 of preferred stock. Applicant now proposes to amend its articles of incorporation again so as to increase its authorized capital stock from \$3,500,000.00 to \$6,000,000.00 divided into 60,000 shares of the par value of \$100.00 each. The stock is to be divided into 40,000 shares of common and 20,000 shares of preferred stock.

The preferred stock which applicant desires to issue will bear 7 per cent cumulative dividends, payable quarterly on the first days of July, October, January and April of each year. The preferred stock has a preference both as to dividends and assets. Upon giving sixty days notice, the company may, at its discretion, redeem the preferred stock at \$110.00 per share, plus accumulated dividends. This option the company exercised in 1912, when it called in and redeemed \$1,800,000.00 par value of preferred stock then outstanding at 110 per cent of its par value (Volume 2, Opinions and Orders of the Railroad Commission of California, pages 264, 267).

According to letter of March 30, 1916, from applicant, on file herein, applicant retired its \$1,800,000.00 par value of preferred stock in 1912 for the following reasons:

“It was not possible at that time for the company to finance itself by the local sale of its securities, as had become apparent from repeated efforts. The market for its securities had accordingly to be found in eastern investment centers. It was found that the stock could not be marketed there to advantage on account of the stringent inheritance tax law of California and the stockholders' liability law of California, as to both of which there was considerable apprehension on the part of investors. There were constant complaints from investors regarding both of these laws, and it

seemed likely that unless the stock was constantly strongly supported there would be a great deal of it thrown on the market; thus breaking the price and inevitably affecting the price of other securities of the company. A great deal of this stock was held by investors who feared that if it became a part of their estates, it would not be a desirable investment, because of the stockholders' liability and assessment provisions of the California law, and further because its transfer, in case of the death of the owner, would be subject to taxation under the inheritance tax law. For these reasons the Standard Gas and Electric Company, which holds all the common stock of this company, decided that it would be best to retire the preferred stock and to itself purchase additional common stock as needed, financing such purchase by the sale of its own preferred stock, which would not be subject to any of the objections mentioned."

As stated heretofore, applicant now proposes to issue \$144,000.00 par value of preferred stock. Since retiring the former issue, applicant has become convinced of the possibility of selling its preferred stock locally. The management of this corporation is of the opinion that it will be advantageous for the company to interest people of San Diego in the utility by the sale to them of its preferred stock.

In said letter of March 30, 1916, applicant further says:

"You have expressed a fear that the institution of the sale of preferred stock by us might lead to a discontinuance of common stock financing. The Standard Gas and Electric Company owns all of the common stock of this company and is willing to purchase additional common stock as required for junior financing purposes in the future, although it will naturally base the price which it will pay upon the dividend rate."

Applicant desires to use part of the proceeds obtained from the issue of its preferred stock at par to pay the following promissory notes:

(1) Promissory note dated November 1, 1915, payable to Melville Klauber on May 1, 1916 -----	\$20,000 00
(2) Promissory note dated November 15, 1915, payable to First National Bank, Lisbon, N. D., on May 15, 1916 -----	2,500 00
(3) Promissory note dated November 15, 1915, payable to First National Bank, Lisbon, N. D., on May 15, 1916 -----	7,500 00
Total -----	\$30,000 00

The remaining \$114,000.00 applicant desires to use to reimburse its treasury for moneys expended out of income to pay for the cost of extensions, additions and betterments. I understand that it is applicant's intention to use the proceeds from the sale of said \$114,000.00 of preferred stock for the purpose of further capital expenditures and not for the declaration of a dividend. It is thus unnecessary at this time to comment on applicant's dividend policy referred to in Decision No. 1939 (Volume 5, Opinions and Orders of the Railroad Commission of California, page 724).

I recommend that the application be granted and submit herewith the following form of order:

ORDER.

San Diego Consolidated Gas and Electric Company having applied to the Railroad Commission of the State of California for an order authorizing the issue of \$144,000.00 par value of 7 per cent preferred stock, and a public hearing having been held and it appearing that the purposes for which said stock is to be issued are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that San Diego Consolidated Gas and Electric Company be and the same is hereby authorized to issue \$144,000.00 par value of 7 per cent preferred stock, on the following conditions and not otherwise:

1. San Diego Consolidated Gas and Electric Company shall sell preferred stock herein authorized to be issued at not less than the par value thereof.

2. The proceeds from the sale of said preferred stock shall be used only for the following purposes:

(1) To pay promissory notes as follows:

(a) Promissory note dated November 1, 1915, payable to Melville Klauber -----	\$20,000 00
(b) Promissory note dated November 15, 1915, payable to First National Bank of Lisbon, N. D. -----	2,500 00
(c) Promissory note dated November 15, 1915, payable to First National Bank of Lisbon, N. D. -----	7,500 00

(2) To reimburse the treasury for moneys expended to pay for cost of extensions, additions and betterments ----- 114,000 00

Total ----- \$144,000 00

3. The proceeds from the sale of said preferred stock of the par value of \$114,000.00, issued to reimburse applicant's treasury, shall be used only to pay for proper capital expenditures hereafter authorized by this Commission by supplemental order or orders herein.

4. San Diego Consolidated Gas and Electric Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of preferred stock hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission stating the sale or sales of said stock during the previous month, the terms and conditions of sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein given to issue preferred stock shall apply only to preferred stock issued on or before December 31, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of April, 1916.

DECISION No. 3281.

IN THE MATTER OF THE APPLICATION OF NORD WAREHOUSE COMPANY TO INCREASE ITS RATES FOR THE STORAGE OF GRAIN AND HOPS.

Application No. 2156.

Decided April 24, 1916.

Applicant, upon a showing that it is operating its warehouse at a loss, is authorized to put into effect the following rates for the storage of grain and hops: Grain, \$1.00 per ton per season; hops, 15 cents per bale for first month, 20 cents per bale for first two months, 25 cents per bale for first three months, and 30 cents per bale for season.

REPORT OF THE COMMISSION.

This is an application by Nord Warehouse Company, a corporation, for permission to increase its rates for the storage of grain and hops in its warehouse at Nord, Butte County.

A public hearing was held in Chico, April 18, 1916. From the evidence it appears that applicant owns and operates a wood frame building 190 feet long by 32 feet 6 inches wide, with an addition of 54 by 72 feet. The building is located upon land belonging to the Southern Pacific Company at Nord for which the warehouse company, up to 1915, paid an annual rental under a year-to-year lease of \$164.50, but last year the rental was reduced to \$25.00 per year.

One of the Commission's assistant engineers, E. P. McAuliffe, after an examination of the property, estimated the reproduction cost of the warehouse as \$4,581.15, and the reproduction cost less depreciation as \$2,748.66.

Mr. A. E. Morton, superintendent and general manager of the warehouse company, testified that the total earnings of the company for last year were \$872.00, whereas its total expenses were as follows:

Insurance -----	\$37 50
Land -----	25 00
Taxes -----	64 58
Labor at \$2.75 per day-----	814 00
Total -----	<u>\$941 08</u>

In this statement of operating expenses no allowance is made for interest upon the property of applicant nor for any salary to the company's manager, who also testified that he advanced the deficit out of his own pocket. Applicant received for storage last season 592 tons of grain and 1,858 bales of hops. The present rates are as follows:

Grain.

- 50 cents per ton for the first month.
- 12½ cents per ton for the second month.
- 12½ cents per ton for the third month and the balance of the season, ending June 1st.

Hops.

- 10 cents per bale for the first month.
- 5 cents per bale for the second month.
- 5 cents per bale for the third month and the balance of the season, ending June 1st.

The warehouse company in its application, as amended at the hearing, has asked permission to increase its rates so as to charge its customers as follows:

For the Storage of Grain.

- \$1.00 per ton for the season.

For the Storage of Hops.

- 15 cents per bale for the first month.
- 5 cents per bale for the second month.
- 5 cents per bale for the third month.
- 5 cents per bale for the fourth month and the remainder of the season.

No objection whatever was made to the service rendered by applicant, which service according to all the testimony is satisfactory. Under all the circumstances we feel that the application should be granted.

ORDER.

Nord Warehouse Company, a corporation engaged in the business of operating a warehouse in Nord, Butte County, having applied to this Commission for an order authorizing an increase in rates for the storage of grain and hops, and a public hearing having been held and said application having been submitted and being now ready for decision, we hereby find as a fact that the existing rates are noncompensatory and unreasonable, and that the rates hereinafter authorized are just and reasonable. Basing our conclusion upon the foregoing findings of fact and upon the further findings of fact contained in the opinion which precedes this order,

It is hereby ordered that applicant be and it is hereby authorized to establish and collect the following rates, viz:

For the Storage of Grain.

- \$1.00 per ton per season ending June 1st.

For the Storage of Hops.

- 15 cents per bale for the first month.
- 20 cents per bale for the first two months.
- 25 cents per bale for the first three months.
- 30 cents per bale for the season ending June 1st.

It is hereby further ordered that the collection of these rates shall be conditioned upon the rendering of first-class service as heretofore given, such as receiving, weighing, piling, carrying in storage and such other service as it is customary for warehousemen, similarly situated, to give, and in addition thereto all ordinary resacking, including the furnishing of sacks, or otherwise placing the grain in proper condition for shipment.

It is hereby further ordered that the rates herein authorized shall not become effective earlier than June 1, 1916, and not until applicant has filed with this Commission its tariff carrying the new rates; said tariff to be filed within thirty (30) days from the date of this order.

Dated at San Francisco, California, this 24th day of April, 1916.

Decisions Nos. 3282 and 3283, grade crossings: not printed. See end of volume.

DECISION No. 3284.

IN THE MATTER OF THE APPLICATION OF PEOPLES WATER COMPANY FOR REORGANIZATION.

Application No. 1531.

Decided April 25, 1916.

REPORT OF THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

Whereas this Commission, on March 30, 1916, issued its first supplemental order in the matter of the application herein; and

Whereas said order authorized Peoples Water Company to transfer its properties to East Bay Water Company, a water district, or other municipal corporation; and

Whereas said order further authorized East Bay Water Company to issue \$9,128,000.00 of first mortgage 5½ per cent bonds; \$7,400,000.00 par value of stock "and such additional stock as may be authorized in a supplemental order"; and

Whereas application has now been made to this Commission for a supplemental order authorizing East Bay Water Company to issue \$500,000.00 additional stock; and

Whereas it is now proposed that East Bay Water Company issue its stock as follows:

- \$4,440,000 par value of 6 per cent cumulative preferred stock.
- \$3,460,000 par value of common stock.

It is hereby ordered that East Bay Water Company be granted authority and it is hereby granted authority to issue \$4,440,000.00 par value of 6 per cent cumulative preferred stock and \$3,460,000.00 par value of common stock.

The authority herein given to issue said stock is given in lieu of the authority heretofore granted to East Bay Water Company to issue \$7,400,000.00 par value of stock.

The authority herein granted is granted upon all of the conditions attached to this Commission's first supplemental order dated March 30, 1916, in the matter herein.

Dated at San Francisco, California, this 25th day of April, 1916.

Decisions Nos. 3285 and 3286, grade crossings; not printed. See end of volume.

DECISION No. 3287.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF THE MONTEREY AND PACIFIC GROVE RAILWAY COMPANY.

Case No. 315.

Decided April 27, 1916.

Investigation on the Commission's own motion to determine the various elements entering into the value of respondent's property.

Findings of fact: That the reproduction cost of the operative physical property of respondent as of June 30, 1914, is the sum of \$137,108.99; that the reproduction cost, less depreciation, of the operative physical property of respondent as of June 30, 1914, is the sum of \$102,541.26; that an allowance of 5 per cent for engineering is amply sufficient to cover such item, as is also an allowance of 3 per cent for interest during construction.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

OPINION AND FINDINGS.

This is one of the so-called railroad valuation cases brought upon the Commission's own initiative for the purpose of ascertaining and reporting certain facts and estimates of cost which enter into the value of the property of the various railroad corporations in the State of California.

The valuation of the railroads in California was undertaken by the Commission under the provisions of section 20 of the Stetson-Eshleman Act, effective February 10, 1911, and was continued under the provisions of the Public Utilities Act, effective March 23, 1912. The sections of the Public Utilities Act particularly applicable to these proceedings are sections 47 and 70. For the general procedure in these valuation cases and for a general description of the work performed by the Commission's engineering department in connection therewith, reference is hereby made to this Commission's opinion and findings in

Case No. 206, the first of these cases, being the matter of ascertaining the value of the property of the Stockton Terminal and Eastern Railroad Company. (Vol. 2. Opinions and Orders of the Railroad Commission of California, p. 777.)

It will be well to note that herein, as in that case, I shall make findings of fact on various elements which bear on the value of the property as shown by the evidence in this case, and that I shall not make findings on the ultimate question of the value of the property, irrespective of the purpose or purposes for which the value is ascertained. I shall leave to the future the use of these facts or such thereof as may be material in any proceeding in which they may become relevant.

In making findings in this case I shall consider the following matters:

1. Organization, construction and operation.
2. Stocks and bonds.
3. Revenues and expenses.
4. Original cost, as defined.
5. Reproduction cost, as defined.
6. Reproduction cost less depreciation, as defined.

I shall first define the three elements of value which it is proposed to find:

The term "original cost" means the actual expenditures chargeable to capital account, in accordance with the Interstate Commerce Commission's classifications, in cash, or its equivalent in terms of cash, by the public utility for its property in the State of California, as of the date of the valuation.

The term "reproduction cost" means the estimated cost in cash of reproducing the physical property of the public utility in the State of California, as of the date of the valuation; to which is added the value of all operative lands, based on the market value of adjacent and similar lands, the actual or estimated cost of acquiring franchises and the estimated cost of overhead expenditures for engineering, law, interest and other similar items.

The term "reproduction cost less depreciation" means the reproduction cost less an amount to cover the depreciation of the physical elements of the property, due to use, age, obsolescence, inadequacy, or other causes, and plus an amount to cover the appreciation in the physical elements of the property, due to age or other causes.

In accordance with the Commission's order the Monterey and Pacific Grove Railway Company on February 10, 1915, filed with the Commission an inventory of its property, together with an estimate of its reproduction cost and reproduction cost less depreciation, as of June 30, 1912. A copy of the final summary sheet of that appraisal is attached to this opinion and marked Exhibit "A."

On June 12, 1915, the Commission's engineering department submitted to the Commission its detailed valuation report as of June 30, 1914, and on June 22, 1915, a copy of this report was sent to the

company by the Commission. A copy of the final summary sheet of this report is attached to this opinion and marked Exhibit "B."

Exhibits "A" and "B" are not comparable, for in the two years between the dates of the reports certain additions were made to the property. According to the company's annual reports to the Commission, \$941.22 was expended for additions and betterments during the interim. Also included in the total of Exhibit "B" are several blocks of track deeded as a gift by the Monterey and Del Monte Heights Railway Company, which was not included in the company's valuation and which has not entered into the company's accounting, this gift having been made since the date of the company's appraisal.

The above statements apply to the total on Exhibit "A" of \$162,102.27, and not to the total of \$220,483.27. This latter figure includes, as will be noted, estimated allowances for "working capital other than stores and supplies" and "going value and good will." These items were not considered by the engineering department, which has confined its inventory and appraisal to that property included in the "Classification of Expenditures for Road and Equipment of Electric Railways as Prescribed by the Interstate Commerce Commission—First Issue."

At the hearing held in Monterey on March 17, 1916, several objections, which will be taken up later, were made by the representatives of the company to the report of the engineering department.

1. Organization, construction and operation.

At the date of this valuation the Monterey and Pacific Grove Railway Company, a corporation, operates an electric street railway in the cities of Monterey and Pacific Grove, all of the road, except some eight hundred feet in the United States Presidio of Monterey, being located within these two municipalities. There are 5.69 miles of main line track and .22 miles of secondary track. The company is controlled by the Coast Valleys Gas and Electric Company, and is operated as a subsidiary of that company.

This road had its beginning about 1890 as a privately owned horse-car line. The Monterey and Pacific Grove Street Railway and Power Company was organized on June 2, 1893, and shortly afterwards took over the horse-car line, which it continued to operate.

On June 25, 1902, the stock ownership passed to the Monterey Gas and Electric Company, which had been incorporated on May 5, 1902, and shortly afterwards the road was electrified, although still narrow gauge. In this or the following year all the real estate was transferred to the Monterey County Gas and Electric Company, the successor of the Monterey Gas and Electric Company. The reason or the consideration is not known. On July 3, 1907, the name of the railway company was changed to its present name.

The road was broad-gauged in 1911, and on December 1, 1911, the control of the road was passed over to the Consolidated Light and Power Company along with all the other property of the Monterey County Gas and Electric Company (some water properties were not transferred). The same day this buyer deeded its property to one, L. H. Rich, and in March, 1912, Mr. Rich deeded the same property to the Coast Valleys Gas and Electric Company, and thus the road came into the possession of its present owner.

The Monterey and Del Monte Heights Railway Company, operating a road north from Monterey, on March 3, 1913, deeded about three blocks of track and electrical overhead in Monterey for which it had no franchise, this property being about one year old at the time of transfer.

The Monterey and Pacific Grove Railway Company is essentially a street railway, practically all of the tracks being laid in city streets. The road is comparatively level with one heavy grade about 3,000 feet long. Rails are principally a 40-pound narrow tread section and are in poor condition. The joints are also poor. There is some rock ballast, but the principal ballast material is dirt from alongside. Many of the ties are but 6 feet long, being left in the track when the road was broad-gauged.

The electrical distribution is at 500 volts, by overhead trolley, using simple span suspensions. Many of the suspensions are from joint or foreign poles.

The company owns eight cars, all small and old. The electric equipment of these cars is of an old type and expensive to maintain. As might be expected, construction and maintenance are poor, but may be considered commensurate with operating requirements.

Cars run every half hour, requiring but three cars in service at one time. No freight service is given.

2. Stocks and bonds.

When the Monterey and Pacific Grove Street Railway and Power Company was organized, \$180,000.00 in stock was authorized and \$80,000.00 given to the owner of the horse-car line. No relation existed between the par value of this stock and the value of the horse-car line. On July 22, 1907, the capital stock was increased to \$600,000.00, but \$300,000.00 of this authorized capital stock was not issued. At this time \$300,000.00 first mortgage 6 per cent thirty-year bonds dated July 1, 1907, were authorized, these bonds bearing the unsecured guarantee of the Monterey County Gas and Electric Company. These bonds were issued shortly thereafter, 150 being issued to the Monterey County Gas and Electric Company on July 23, 1907, to satisfy "an indebtedness of a large sum of money" by the latter company. Just

what this indebtedness covered is not known, and apparently the balance between the companies, the Gas and Electric Company acting as the treasurer for the railway company, never reached this figure; 6,725 shares of stock were also given the Monterey County Gas and Electric Company at this time. On November 7, 1907, 150 bonds were authorized to be delivered to the treasurer of the company, and on June 20, 1908, 20 more bonds were authorized to be delivered to the parent company.

It has been found that the railway retained in its treasury all the bonds until sold by it for cash, and these sales, commencing October, 1907, continued to June, 1910, during which time \$198,000.00 par value were sold, realizing \$177,930.00. The entire proceeds of these sales went to the Monterey County Gas and Electric Company. The relation of this company with the railway company, therefore, changed from that of a debtor to a creditor, and the debit balance of \$40,976.95 in December, 1907, became, on the railway's books, an account receivable of \$51,283.58. On June 30, 1911, this amount due had increased to \$126,093.16, and seems to have been accepted as a liability by the parent company.

On June 30, 1911, the railway wrote off this \$126,093.16 without any apparent satisfaction of the indebtedness, the amount being charged to plant (capital) account. It also appears that the same amount was written off the books of the Monterey County Gas and Electric Company and charged to profit and loss. Therefore, it seems that out of the proceeds of the bonds sold, \$126,093.16 was turned over to the last named company, and from the records this company is still indebted in this amount, with interest to date, to the railway company.

In order to present succinctly the results of the investigation into the securities issued by this road, the following balance sheet prepared by the auditing department is presented, which shows all changes which should be made in this company's books in order to have them reflect the true state of affairs.

It will be noted that the bonds outstanding, \$198,000.00 par value, are far in excess of the totals of both Exhibits "A" and "B." It is clear that the various transfers of the property have not served any useful purpose and have only resulted in beclouding the guarantees and securities behind the bonds. This statement is borne out by the fact that the Coast Valleys Gas and Electric Company disclaims all liability, and the matter has been brought into court by the bondholders, and at this time is still undecided.

Statement Showing Revision of Balance Sheet as of June 30, 1914.
Assets.

Balance sheet	As per books June 30, 1914	Corrections		Corrected as of June 30, 1914
		Minus	Plus	
Cost of road.	\$612,420 25			\$229,497 28
No. 1. Less stock issued at par and added hereto without acquisition of further property				
No. 2. Less account Monterey County Gas and Electric Company, written off and charged hereto without acquisition of property		\$202,840 00		
No. 3. Less bonds entered as withdrawn from treasury without entry of consideration, but charged hereto		126,093 16		
No. 4. Add items of surplus written off to credit of plant in treating accounts June, 1911		90,000 00		
Stock discount			\$36,010 19	
Add item No. 1 above.	Nil			202,840 00
Due from Monterey County Gas and Electric Company	Nil			126,093 16
Add item No. 2 above.	Nil			1,879 60
Due from Coast Valleys Gas and Electric Company				
No. 5. Liability shown at June 30, 1914, incorrect by reason of including therein \$18,000 for bonds surrendered by them for the sinking fund. Reversing same turns account into debt.				
Current assets	2,198 11			2,198 11
Deferred charges	1,954 58			1,954 58
Coupon deposit account	8,130 00			8,130 00
Casualty and insurance reserve	105 09			105 09
Deficit	13,579 19			Nil
Less item No. 4 above for surplus credited to plant in June, 1914		36,010 19		
	\$638,387 22	\$454,943 35	\$364,943 35	\$572,697 82

Capital stock	-----
Bonds	-----
Less bonds as per item No. 3 entered as issued, but apparently not so.	-----
Add bonds as per item No. 5 turned into sinking fund from bonds which are not apparently legally issued.	-----
Due to Coast Valleys Gas and Electric Company	-----
Less bonds surrendered and credit taken therefor at par. (See assets).	-----
Current liabilities	-----
Bond interest matured	-----
Taxes accrued	-----
Surplus	-----
Deficit—transferred to surplus. (See assets).	-----

Capital stock			
Bonds			
Less bonds as per item No. 3 entered as issued, but apparently not so.	\$300,000 00		\$300,000 00
Add bonds as per item No. 5 turned into sinking fund from bonds which are not apparently legally issued	270,000 00		198,000 00
Due to Coast Valleys Gas and Electric Company		\$18,000 00	
Less bonds surrendered and credit taken therefor at par. (See assets.)	16,120 00		
Current liabilities			
Bond interest matured	42,907 25		18,000 00
Taxes accrued	8,175 00		
Surplus	1,184 57		
Deficit—transferred to surplus. (See assets.)	N11		
	\$638,387 22	\$18,000 00	\$572,697 82

3. Revenue and expenses.

Statement Showing Various Traffic Revenue and Other Statistics Compiled from Annual Reports of the Commission.

Item No.	Item	During or at end of year ending June 30			
		1911	1912	1913	1914
Operating Revenues.					
1.	Revenues from transportation-----	?	\$41,329 28	\$42,589 51	\$39,386 55
2.	Other operations-----	?	494 16	717 75	555 45
3.	Totals-----	\$37,203 75	\$41,823 44	\$43,307 26	\$39,942 00
Operating Expenses.					
4.	Maintenance of way and structures-----	\$3,923 12	\$2,202 79	\$3,073 96	\$3,192 92
5.	Maintenance of equipment-----	5,201 53	2,919 26	4,163 45	4,274 94
6.	Conducting transportation-----	18,091 14	19,254 20	18,339 73	16,192 58
7.	General and miscellaneous-----	2,351 86	2,059 62	2,465 96	3,392 29
8.	Totals-----	\$29,567 65	\$26,435 87	\$28,043 10	\$27,052 73
9.	Ratio of operating expenses to operating revenues, 3÷8-----	-----	63%	65%	68%
10.	Net operating revenue (3-8)-----	\$7,636 10	\$15,387 57	\$15,264 16	\$12,889 27
11.	Taxes-----	1,028 85	1,704 31	2,104 65	2,625 13
12.	Interest, funded debt-----	11,880 00	*11,880 00	†17,010 00	16,515 00
13.	Interest, floating debt-----	-----	1 00	221 00	1,635 98
14.	Totals-----	\$11,880 00	\$11,881 00	\$17,231 00	\$18,150 98
15.	Total deductions (11+14)-----	12,908 85	13,585 31	19,335 65	20,776 11
16.	Deficit for year-----	5,272 75	†1,802 26	4,071 49	7,886 84

*Interest of bonds in hands of public, only \$198,000.00 par value.

†Includes interest on bonds held by owing company.

‡Surplus for year.

I believe attention should be drawn to the disproportionate amount of bonded indebtedness on this road, and the consequent high fixed interest charges.

In 1914 the number of passengers carried evidently fell off to 87 per cent of the figures for 1913, which appears to be the principal cause for the reduction in revenue. For the last seven months of 1914, not covered by figures in this report, the earnings fell off 17.1 per cent for the corresponding months of 1913, while for the first five months the reduction was 12 per cent. This loss of 5 per cent is attributed to the advent of the jitney bus and to the removal of soldiers from the presidio.

It might be noted that the parent company makes no charge for the use of car barn, general offices, compensation of general officers, and for the services of clerks, stenographers and general office expenses. Were this company under a separate management the foregoing are all general expenses which it would be compelled to assume.

4. *Original cost.*

The original cost could not be ascertained, for the reason that the books are in such shape as the result of the relations of the owning companies and this road that it is impossible to make definite statements of fact.

5. *Reproduction cost.*

At the hearing the representatives of the company made several objections to the figures as submitted by the engineering department.

First, the company objected to the estimated cost of obtaining franchises and to substantiate its claim introduced in evidence a paid bill representing the cost of acquiring the two present franchises (company's Exhibit No. 1), a letter from the city clerk of the city of Monterey, stating the amount of the bid for the franchise, together with other information (company's Exhibit No. 2), and a letter stating the amount of the bond premium (company's Exhibit No. 3).

The subject matter of company's Exhibit No. 2 is covered by the first exhibit, and as the bond premium referred to in company's Exhibit No. 3 deals with operating expenses, it is not pertinent to the matters here under consideration.

The bill (Exhibit No. 1) includes a fee of \$2,500.00 out of which \$500.00 should be deducted as, at the hearing, it was stated that this amount represented the fee in another case. The actual cost of obtaining the franchises then appears to be as follows:

Paid for franchises-----	\$200 00
Printing -----	136 00
Incidental expenses -----	81 56
Attorney's fee -----	2,000 00
Total -----	<u>\$2,417 56</u>

This data is new to the engineering department, and I am inclined to think this amount should be included instead of the amount estimated by the engineering department.

The company also objected to the allowance made by the engineering department for contingencies. The objection was general in its nature and not directed to any particular account or groups of accounts. The company offered no suggestions or evidence at the hearing on this subject. After reviewing the allowances made by the engineering department, I am inclined to let the allowance stand as submitted.

The next exception was to the allowance of 5 per cent (calculated on a total of accounts 4 to 33, inclusive) for engineering. Mr. Woodbridge brought up the fact that the engineering department has found slightly more than this for the actual cost on the Tidewater Southern Railway Company. In this case the difference is about $\frac{2}{10}$ of 1 per cent. In going over the data bearing on this subject, it appears that the low as well as the high have been taken into consideration by the engineering department in fixing the percentage used, and since it further appears that there is no reason why this expense on this road should be exceptionally high, I shall allow the figures of the engineering department to stand.

The engineering department estimated interest at 3 per cent, this estimate being based on an allowance of 6 per cent interest on all the money required for one-half the construction period of one year. To this method the company took no exception, but claimed the rate was too low, and that money could not be raised at this rate for the construction of this class of property. At the precise date of hearing, this is possibly correct, but I believe that in determining the cost of money there should be considered some period rather than a particular day or month, and it is an established fact that in California 6 per cent money is available for new enterprises of this sort. Furthermore, the period of construction was estimated for something less than one year; and there is no real estate, which usually requires outlay for a longer period. This rate of 6 per cent is one which has come before the Commission in valuations as of the same date, and taking everything into consideration, I believe that the allowance of 3 per cent is sufficient.

The company stated that its main objection was to the estimate made by the engineering department for Account 44 (Miscellaneous) which was submitted as 2 per cent of the total of Accounts 1 to 43 (excepting Accounts 2 and 41), which amounted to \$2,467.00. It was the testimony of the company's witness, Mr. Woodbridge, that the amount should be, in his personal judgment, at least \$10,000.00.

While the estimate of 2 per cent on larger roads apparently results in a sufficient allowance, and in the case of still larger roads would

result in an allowance far too high, as shown by the analyses of cost made by the engineering department, I am inclined to believe that because this carrier is relatively small, the 5 per cent instead of 2 per cent, calculated on the same basis, should be allowed.

These changes will cause several modifications in the account "Interest" and, after making all corrections, the final summary sheet is as shown in Exhibit "C" attached.

After careful consideration of all the evidence submitted in this case, I find that the reproduction cost, as that term has hereinbefore been defined, of the property of the Monterey and Pacific Grove Railway Company, as of June 30, 1914, is the sum of \$137,108.99.

6. Reproduction cost less depreciation.

With respect to this element of value, the company took exception to the depreciation estimated by the engineering department, but the only specific objection was made to the depreciation on copper wire. Whether the objection was made to the estimated life, or scrap value, or both, is not apparent, but it was evidently to the scrap value, which was shown by the engineering department as follows:

Trolley wire, scrap value.....	25 per cent
Feeder wire, scrap value	40 per cent

Mr. Woodbridge, the company's engineer, stated that when copper was about 20 cents per pound, the scrap value of copper wire was about 10 cents per pound, or 50 per cent, and when new it cost 31 cents, the scrap value was about 20 cents, or about 64 per cent. The engineering department used a base price for copper wire of less than 20 cents, which involves a scrap value, following this statement, of approximately 50 per cent. This scrap value is not for the wire on the poles, but at a point of sale, so that there must be deducted the cost of taking down the wire, and the cost of taking it to the point of sale; and it is these costs which, it appears, bring down the scrap value to the percentages used by the engineering department. The depreciation of weatherproofing on the feeder wire and on trolley wire, the loss due to wear, is also to be considered. As noted in the report of the Commission's engineers, the depreciation of the trolley wire was not based on a life table exclusively. The 65 per cent used as the condition of the trolley wire is based on inspection, taking into consideration the very large number of splices and such knowledge of renewals as was available.

I am inclined to accept the figures of the engineering department for wire, after a clerical error which was found has been corrected.

Considering all the evidence in this case, I find that the reproduction cost less depreciation, as that term is hereinbefore defined, of the property of the Monterey and Pacific Grove Railway Company, as of June 30, 1914, is the sum of \$102,541.26.

The foregoing opinion and findings are hereby approved and ordered filed as the opinion and findings of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of April, 1916.

EXHIBIT "A."

Name of owner, Monterey and Pacific Grove Railway Company; operating company, same.
Valuation as of June 30, 1912; L. O. Wolcott, field inspector; E. L. Morgan, office compiler; date compiled, January 28, 1916; miles main line track, 5.5.

Class No.	Form No.	I. C. C. Act. No.	Classes	Original cost	Reproduction value	Cond. per cent	Present value
3	3	4	Grading		\$4,479 09	110	\$4,927 00
4	4	5	Ballast		1,466 14	108	1,576 75
5	5	6	Ties		9,005 86	100	9,005 86
6	6	7	Rails		17,381 28	67	11,645 86
7	7	7	Track fastenings and joints		3,657 60	63	2,311 41
8	8	8	Special work		138 40	93	128 13
9	9	8	Frogs and switches		1,702 56	65	1,103 15
11	11	10	Paving		6,822 00	100	6,822 00
12	12	11	Tracklaying and surfacing		6,118 50	58	3,572 28
13	13	12	Roadway tools		141 82	100	141 82
18	17	15	Culverts		88 24	100	88 24
20	19	16	Crossings and signs		41 54	100	44 54
23	22	18	Telephone and telegraph lines		384 25	100	384 25
24	23	19	Poles and fixtures		969 36	100	969 36
27	26	22	Distribution system		6,478 64	100	6,478 64
37	36	31	Substation equipment		10,196 18	83	8,501 47
38	37	32	Shop equipment		4,535 80	100	4,535 80
			Total classes 1 to 39, inclusive		\$73,670 23		\$62,316 56
40	---	1	Engineering 10 per cent classes 1 to 39, inclusive		7,367 03	100	7,367 03
42	---	42	Injuries and damages		736 70	100	736 70
			Total classes 1 to 42, inclusive		\$81,773 99		\$70,420 29
43	39	35	Cars		22,172 00	57	12,687 00
47	43	37	Electric equipment of cars		11,342 00	58	6,514 00
49	45	39	Miscellaneous equipment		181 00	100	181 00
			Total classes 1 to 49, inclusive		\$115,468 99		\$89,832 29
50	---	40	Law expenses 10 per cent classes 1 to 49, inclusive		1,550 00	100	1,550 00
51	46	43	Taxes		731 31	100	731 31
52	46	44	Miscellaneous		24,355 00	100	24,355 00
			Total classes 1 to 52, inclusive		\$142,165 30		\$116,468 60
53	---	41	Interest 3 1/2 per cent classes 1 to 51, inclusive		4,067 01	100	4,067 01
54	---	---	Contingencies 8 per cent classes 1 to 52, inclusive		11,368 42	100	11,368 42
55	47	---	Stores and supplies on hand for use in California		4,561 54	100	4,561 54
			Grand total		\$162,102 27	84	\$136,465 57
			Average per mile for main line track		29,473 00		24,812 00
			Working capital other than stores and supplies		5,000 00		5,000 00
			Going value and good will		53,381 00		53,381 00
			Grand total		\$220,483 27		\$194,846 57

EXHIBIT "B."

Owning company, Monterey and Pacific Grove Railway Company; operating company, same; operating division, entire line; valuation unit, entire line; from Monterey to Pacific Grove, Monterey County.
Valuation as of June 30, 1914; submitted with report of H. G. Weeks, compiler; date compiled, April 7, 1915;
main line first track, 5.69 miles; yard tracks, sidings, etc., .22 mile; total, 5.91 miles.

CLASS No.	Form No.	I.C.C. Acct. No.	Classes	Original cost	Reproduction value	Cond. per cent	Present value
40	1	1	Engineering		\$4,460 00	100	\$4,460 00
1	2	2	Right of way (franchises)		530 00	100	530 00
2	2	3	Other land used in electric railway operation				
3	3	4	Grading		5,433 00	100	5,433 00
4	4	5	Ballast		2,867 00	100	2,867 00
5	5	6	Ties		9,951 00	67	6,666 00
6	6	7	Rails		17,402 00	62	10,720 00
7	7	7	Track fastenings and joints		4,173 00	62	2,595 00
8	8	8	Special work		294 00	85	250 00
9	9	8	Frogs and switches		1,409 00	62	873 00
10	10	9	Underground construction				
11	11	10	Paving		13,673 00	83	11,367 00
12	12	11	Tracklaying and surfacing		8,113 00	67	5,436 00
13	13	12	Roadway tools		235 29	80	188 23
14	14	13	Tunnels				
15	15	14	Elevated structures and foundations				
16	15	15	Steel bridges and trusses				
17	16	15	Pile and frame trestles				
18	17	15	Culverts		90 00	60	54 00
19	18	16	Fences and cattle guards				
20	19	16	Crossings and signs		31 00	90	28 00
21	20	17	Interlocking plants				
22	21	17	Signal apparatus				
23	22	18	Telegraph and telephone lines		397 00	50	199 00
24	23	19	Poles and fixtures		1,180 00	52	611 00
25	24	20	Underground conduits				
26	25	21	Transmission system				
27	26	22	Distribution system		6,710 00	65	4,355 00
28	27	23	Dams, canals and pipe lines				
29	28	24	Power plant buildings				
30	29	25	Substation buildings				
31	30	26	General office buildings				
32	31	27	Shops and car houses		185 53	80	148 42
33	32	28	Stations and waiting rooms		50 00	60	30 00
34	33	28	Miscellaneous buildings				
35	34	29	Docks and wharves				
36	35	30	Power plant equipment				
37	36	31	Substation equipment		12,183 87	76	9,259 74
38	37	32	Shop equipment		4,810 00	84	4,057 57
39	38	33	Park and resort property				
41	39	34	Cost of road purchased				
42	40	35	Injuries and damages		606 00	100	606 00
43	39	35	Cars		16,071 00	58	9,381 00
44	40	35	Freight train cars				
45	41	36	Steam locomotives				
46	42	36	Electric locomotives				
47	43	37	Electric equipment of cars		10,980 00	64	7,002 00
48	44	38	Other rail equipment		555 50	100	555 50
49	45	39	Miscellaneous equipment				
50	46	40	Law expenses		892 00	100	892 00
51	46	43	Taxes		584 00	100	584 00
52	46	44	Miscellaneous		2,467 00	100	2,467 00
53	47	41	Interest		3,774 00	100	3,774 00
55	47	47	Stores and supplies on hand for use in California		1,157 80	100	1,157 80
			Grand total		\$131,264 99	73.6	\$96,607 26
			Average per mile for main track		24,069 00		16,278 50
			Total, "Road," I.C.C. Accounts 1-34, Inc.		94,177 69	75	70,187 96
			Total, "Equipment," I.C.C. Accounts 35-39, inclusive		27,066 50	61	16,938 50
			Total, "General," I.C.C. Accounts 40-44, inclusive		8,323 00	100	8,323 00
			Total, Nonoperative Property (not included in above totals)				

EXHIBIT "C."

Owning company, Monterey and Pacific Grove Railway Company; operating company, same; operating division, entire line; valuation unit, same; from Monterey to Pacific Grove, Monterey County.
Submitted with report of H. G. Weeks; compiled April 18, 1916; main line first track, 5.69 miles; yard tracks, sidings, etc., .22 mile; total, 5.91 miles.

Class No.	Form No.	I.C.C. Acct. No.	Classes	Original cost	Reproduction value	Cond. per cent	Present value
40	---	1	Engineering		\$4,460 00	100	\$4,460 00
1	1	2	Right of way (franchises).....		2,563 00	100	2,563 00
2	2	3	Other land used in electric railway operation				
3	3	4	Grading		5,433 00	100	5,433 00
4	4	5	Ballast		2,867 00	100	2,867 00
5	5	6	Ties		9,951 00	67	6,666 00
6	6	7	Rails		17,402 00	62	10,720 00
7	7	7	Track fastenings and joints.....		4,173 00	62	2,595 00
8	8	8	Special work		204 00	85	2 00
9	9	8	Frogs and switches.....		1,409 00	62	873 00
10	10	9	Underground construction				
11	11	10	Paving		13,673 00	83	11,367 00
12	12	11	Tracklaying and surfacing.....		8,113 00	67	5,436 00
13	13	12	Roadway tools		235 29	80	188 23
14	14	13	Tunnels				
15	---	14	Elevated structures and foundations				
16	15	15	Steel bridges and trusses.....				
17	16	15	Pile and frame trestles.....				
18	17	15	Culverts		90 00	60	54 00
19	18	16	Fences and cattle guards.....				
20	19	16	Crossings and signs		31 00	90	28 00
21	20	17	Interlocking plants				
22	21	17	Signal apparatus				
23	22	18	Telegraph and telephone lines		397 00	50	199 00
24	23	19	Poles and fixtures		1,180 00	52	611 00
25	24	20	Underground conduits				
26	25	21	Transmission system				
27	26	22	Distribution system		6,710 00	67	4,475 00
28	27	23	Dams, canals and pipe lines				
29	28	24	Power plant buildings				
30	29	25	Substation buildings				
31	30	26	General office buildings.....				
32	31	27	Shops and car houses.....		185 53	80	148 42
33	32	28	Stations and waiting rooms.....		50 00	60	30 00
34	33	28	Miscellaneous buildings				
35	34	29	Docks and wharves.....				
36	35	30	Power plant equipment				
37	36	31	Substation equipment		12,183 87	76	9,259 74
38	37	32	Shop equipment		4,810 00	84	4,057 57
39	38	33	Park and resort property.....				
41	---	34	Cost of road purchased.....				
42	---	42	Injuries and damages.....		606 00	100	606 00
43	39	35	Cars		16,071 00	58	9,381 00
44	40	35	Freight train cars.....				
45	41	36	Steam locomotives				
46	42	36	Electric locomotives				
47	43	37	Electric equipment of cars.....		10,980 00	64	7,002 00
48	44	38	Other rail equipment		555 50	100	555 50
49	45	39	Miscellaneous equipment				
50	---	40	Law expenses		892 00	100	892 00
51	46	43	Taxes		584 00	100	584 00
52	46	44	Miscellaneous		6,167 00	100	6,167 00
53	---	41	Interest		3,885 00	100	3,885 00
55	47	---	Stores and supplies on hand for use in California		1,157 80	100	1,157 80
			Grand total		\$137,108 99	75	\$102,541 26
			Average per mile for main track.....		24,096 00	75	18,021 00
			Total, "Road," I.C.C. Accounts 1-34, Inc., inclusive		96,210 69	75	72,310 06
			Total, "Equipment," I.C.C. Accounts 35-39, inclusive		27,603 50	61	16,938 50
			Total, "General," I.C.C. Accounts 40-44, inclusive		12,134 00	100	12,134 00
			Total, Nonoperative Property (not included in above totals).....				

DECISION No. 3288.

W. H. FINLEY ET AL.

vs.

PACIFIC ELECTRIC RAILWAY COMPANY.

Case No. 705.

Decided April 27, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The complaint in this proceeding having been filed asking for an order of the Commission directing Pacific Electric Railway Company to construct a certain rail connection in Los Angeles County in order that the residents of Ingleddale, Lawndale, Plymouth Acres, Burleigh, North Moneta and Hawthorne Acres, in Los Angeles County, might have a direct rail connection with the city of Los Angeles, and the complainants having, on April 24, 1916, filed with this Commission a statement that the rail connection had been constructed by the defendants in accordance with the prayer of the complaint and requesting that the complaint be accordingly dismissed,

It is hereby ordered that the complaint in this proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 27th day of April, 1916.

DECISION No. 3289.

IN THE MATTER OF THE APPLICATION OF ARCATA AND MAD RIVER RAILROAD COMPANY AND NORTHERN REDWOOD LUMBER COMPANY FOR PERMISSION TO SELL LOGGING ROAD AND TO MAKE AN AGREEMENT FOR RECIPROCAL USE OF TRACKS.

Application No. 2213.

Decided April 27, 1916.

Arcata and Mad River Railroad Company authorized to transfer to the Northern Redwood Lumber Company for the sum of \$65,387.80, a certain branch line connection with its main line, near Riverside, Humboldt County, and also to enter into an agreement whereby each company will operate its trains over the tracks of the other.

REPORT OF THE COMMISSION.

Arcata and Mad River Railroad Company and Northern Redwood Lumber Company having filed an application asking for the authority of the Commission:

(1) To the sale by Arcata and Mad River Railroad Company to Northern Redwood Lumber Company for the sum of \$65,387.80, a certain branch line and certain equipment of Arcata and Mad River Railroad Company, which branch line runs from its connection with the main line at a point near Riverside, in Humboldt County, along the course of the Mad River to certain timber land of Northern Redwood Lumber Company, and the real property, which it is proposed to transfer, being described in a form of deed attached to the application and marked Exhibit "B," as follows:

Parcel 1. A right of way 30 feet wide for a railroad across the southeast quarter of the northwest quarter and the northeast quarter of the southwest quarter of section 5, in township 5 north of range 2 east of Humboldt meridian, being the right of way mentioned in the deed from California Redwood Company to Arcata and Mad River Railroad Company, dated August 17, 1892, and recorded in the recorder's office of Humboldt County in Book 43 of Deeds, page 559.

Parcel 2. A right of way 30 feet wide for a railroad through the east half of the northeast quarter of section 6, in township 5 north of range 2 east of Humboldt meridian, as conveyed by M. McGarraghan to the Arcata and Mad River Railroad Company by deed dated January 16, 1888, and recorded in the recorder's office of Humboldt County in Book 25 of Deeds, page 56.

Parcel 3. A right of way for a railroad across the southwest quarter of the northwest quarter of section 5, in township 5 north of range 2 east of Humboldt meridian, and across the southeast quarter of the southeast quarter of section 31, and across the southwest quarter of section 32, in township 6 north of range 2 east of Humboldt meridian; all as conveyed to the Arcata and Mad River Railroad Company by the following deeds: (a) Deed from Francis Korbel et al., dated September 1, 1903, and recorded in the recorder's office of Humboldt County, in Book 92 of Deeds, page 305; (b) Deed from Francis Korbel et al., dated January 10, 1905, and recorded in said recorder's office in Book 92 of Deeds, page 311; (c) Deed from Eleanora Zaruba et al., dated January 10, 1905, and recorded in said recorder's office in Book 92 of Deeds, page 309.

Parcel 4. A right of way for a railroad across the southeasterly portion of the northeast quarter of the southeast quarter of section 31, in township 6 north of range 2 east of Humboldt meridian, as conveyed by William Boyes to Arcata and Mad River Railroad Company by deed dated December 12, 1890, and recorded in the recorder's office of Humboldt County in Book 44 of Deeds, page 533.

Parcel 5. A railroad right of way 30 feet wide, owned by the party of the first part, in the southeast quarter of the northwest quarter of section 32, in township 6 north of range 1 east of Humboldt meridian.

Parcel 6. A right of way 35 feet wide for a railroad across the southwest quarter of the northeast quarter of section 32 in township 6 north of range 2 east, as conveyed by Dennis Tighe to the

Arcata and Mad River Railroad Company by deed dated September 8, 1886, and recorded in the recorder's office of Humboldt County, in Book 19 of Deeds, page 629.

Parcel 7. A right of way 16 feet wide for a railroad in the east half of the northeast quarter of section 32, in township 6 north of range 2 east, as conveyed by George W. Chandler et al. to Arcata and Mad River Railroad by deed dated December 31, 1886, and recorded in the recorder's office of Humboldt County in Book 23 of Deeds, page 345.

Parcel 8. A right of way 1 rod wide for a railroad in the east half of the northeast quarter of section 32, in township 6 north of range 2 east of Humboldt meridian, as conveyed by Riverside Lumber Company to Arcata and Mad River Railroad Company by deed dated December 5, 1892, and recorded in the recorder's office of Humboldt County in Book 45 of Deeds, page 162.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

To have and to hold all and singular the said premises, together with the appurtenances, unto the said party of the second part, and to its successors and assigns forever.

And the equipment which it is proposed to convey being set forth in a form of bill of sale attached to the application and marked Exhibit "C," as follows:

One (1) steam shovel; two (2) small locomotives, numbered Two (2) and Six (6), respectively; one hundred sixteen (116) logging cars or trucks, and the telephone line and its equipment now used in connection with said logging road and beginning at said point in said section thirty-two (32) above mentioned and running thence easterly and approximately parallel with said railroad, it being the intent of this bill of sale to transfer all of said telephone line and equipment beginning at said point and used in connection with said logging railroad.

(2) To the execution of an agreement between Arcata and Mad River Railroad Company and Northern Redwood Lumber Company, the form of the agreement being attached to the application and marked Exhibit "D," under which agreement it is provided that after the property herein sought to be transferred has been conveyed, Northern Redwood Lumber Company may use the railroad tracks of Arcata and Mad River Railroad Company for the transportation of its locomotives and logging cars and for the transportation of its logs and timber at such times and under such circumstances as will not conflict with the operation by Arcata and Mad River Railroad Company of its trains or locomotives over said railroad, and that said use shall be without cost to Northern Redwood Lumber Company except that the latter shall pay all of the cost of operation and maintenance of its

said locomotives and cars over said tracks of said Arcata and Mad River Railroad Company, and further, that Arcata and Mad River Railroad Company may use the railroad tracks of Northern Redwood Lumber Company for the operation by Arcata and Mad River Railroad Company of its locomotives and cars, provided that said operation and use of said railroad tracks shall be at such times as not to conflict with its operation by Northern Redwood Lumber Company of its logging trains and engines; and it is further agreed that said use shall be without cost to Arcata and Mad River Railroad Company, except that said railroad company shall pay all of the cost of the operation and maintenance of its said locomotives and cars over said railroad tracks of said Northern Redwood Lumber Company.

And the Commission being duly advised in the premises and being of the opinion that the application should be granted,

It is hereby ordered that the application in this proceeding be and the same is hereby granted in all particulars, upon the following condition:

That it is clearly understood that the Railroad Commission reserves the right under its general jurisdiction to supervise and regulate the service of railroads, to revise in case the Commission should deem it wise to do so, the arrangement under which the tracks of Arcata and Mad River Railroad Company are used by the cars and engines of Northern Redwood Lumber Company.

Dated at San Francisco, California, this 27th day of April, 1916.

DECISION No. 3290.

IN THE MATTER OF THE INSTALLATION OF INTERLOCKING OR OTHER PROTECTIVE DEVICES AT THE CROSSING OF THE TRACKS OF SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY AND PACIFIC ELECTRIC RAILWAY COMPANY ON ALISO STREET, IN LOS ANGELES.

Case No. 938.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY AND THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY FOR AUTHORITY TO INSTALL CERTAIN SAFETY DEVICES AT THE INTERSECTION OF ALISO STREET AND THE MAIN LINE OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY'S RAILROAD IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, CALIFORNIA.

Application No. 2043.

Decided April 27, 1916.

Following a serious accident, proceedings were initiated tending towards the installation of an interlocking plant protecting the tracks of Pacific Electric Railway, Santa Fe Railway Company and Salt Lake Railroad Company. Prior to the hearing the companies interested agreeing upon the construction of an interlocking plant and the apportionment of costs thereof, they are accordingly directed to file within three months plans for the approval of the Commission and complete construction nine months after such approval.

A. S. Halsted, for San Pedro, Los Angeles and Salt Lake Railroad Company.

Frank Karr, for Pacific Electric Railway Company.

E. W. Camp, for The Atchison, Topeka and Santa Fe Railway Company.

Albert Lee Stephens, for City of Los Angeles.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

This matter is an outgrowth of a collision between a freight train of The Atchison, Topeka and Santa Fe Railway Company and an interurban car of the Pacific Electric Railway Company at the crossing of the tracks of the two companies on Aliso street, Los Angeles, which took place on May 7, 1915, and resulted in the death of five and the injury of forty passengers. The Commission investigated this accident and ordered the two companies to install a standard interlocking plant for the protection of the crossing.

On January 10, 1916, the Santa Fe and Pacific Electric companies filed with the Commission the above entitled application and asked therein for the Commission's approval of an interlocking device in fulfillment of the requirements of the Commission. The plan which accompanied this application showed a device which provided for no protection for the freight track of the Santa Fe on which the accident of May, 1915, occurred, and as the plan had not provided for derails and was in many other respects not that of a standard interlocking plant, the applicants were advised that the plans as submitted could not be accepted as fulfilling the Commission's requirements, and the application was set for a hearing. At this hearing it was made plain that an interlocking plant to protect the Pacific Electric tracks with those of the Santa Fe would not be complete unless the crossing of the Pacific Electric tracks with those of the San Pedro, Los Angeles and Salt Lake Railroad were also interlocked, and shortly after the hearing the Commission instituted Case 938 of its own motion.

The hearing on both the case and the application was held on April 19, 1916. Previous to the hearing, however, the three companies at interest signed an agreement to install a standard electropneumatic interlocking plant for the protection of these crossings and the terms of installation, maintenance and operation are set forth in a copy of this agreement

signed by all three parties and filed with the Commission on April 8, 1916. These terms are as follows:

"The location of said interlocking plant to be upon the property or right of way of The Atchison, Topeka and Santa Fe Railway Company at some convenient place adjacent to Aliso street. The Atchison, Topeka and Santa Fe Railway Company to furnish the site for the tower and equipment of the plant free of charge.

The initial cost of construction of said interlocking plant to be borne by the Pacific Electric Railway Company and the San Pedro, Los Angeles and Salt Lake Railroad Company, share and share alike.

The Pacific Electric Railway Company to furnish electric energy for the operation of the air compressor or compressors necessary for the operation of such plant, during the operation of the same, at one (1) cent per kilowatt H. D. C.

The cost of the maintenance and operation of said plant shall be borne by The Atchison, Topeka and Santa Fe Railway Company, the San Pedro, Los Angeles and Salt Lake Railroad Company, and the Pacific Electric Railway Company in equal shares; that is to say, one-third each.

The operation and maintenance of said plant shall be by the Pacific Electric Railway Company, under the usual conditions as to satisfactory operation and the employment of satisfactory operators, and with the understanding that Pacific Electric Railway Company's passenger cars and trains are to have first right of track over the switching trains and freight trains of The Atchison, Topeka and Santa Fe Railway Company and the San Pedro, Los Angeles and Salt Lake Railroad Company, but that the passenger trains of The Atchison, Topeka and Santa Fe Railway Company and the San Pedro, Los Angeles and Salt Lake Railroad Company shall have first right of track over all trains."

There is no doubt whatever but that these crossings should be protected by an interlocking plant, and I see no reasons to change the terms upon which the companies have agreed to divide the cost of the installation and operation or to change the terms upon which the plant should be maintained. Three months from the date of this order appears to me to be a reasonable time to allow the parties to draw plans, and nine months therefrom for the plant to be installed and placed in operation.

I recommend the following form of order:

ORDER.

The matter of installing an interlocking plant for the protection of the crossing of the tracks of the Pacific Electric Railway Company with those of The Atchison, Topeka and Santa Fe Railway Company and San Pedro, Los Angeles and Salt Lake Railroad Company having been considered by the Commission, and it appearing that an interlocking plant should be constructed to protect these crossings, and the companies

at interest having agreed to the terms upon which said plant should be constructed, maintained and operated,

It is hereby ordered that Pacific Electric Railway Company, The Atchison, Topeka and Santa Fe Railway Company and the San Pedro, Los Angeles and Salt Lake Railroad Company shall construct a standard interlocking plant at the crossing of their respective lines on Aliso street, in the city of Los Angeles; this plant to be installed in accordance with the agreement hereinbefore mentioned and which has been signed by the companies.

It is hereby further ordered that plans for this interlocking device shall be submitted to the Commission for its approval three (3) months from the date of this order and the plant shall be placed in operation nine (9) months thereafter.

The Commission reserves the right to make such further orders in regard to this matter as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of April, 1916.

DECISION No. 3291.

JOHN PELGANTI, JOSEPH SILVA, J. P. ARBOGAST AND
SHERMAN W. MARSH

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 679.

Decided April 27, 1916.

Defendant heretofore abandoned the service of water to complainants. They petition that it be compelled to resume such service, and satisfactory arrangements having been agreed upon between defendant and all complainants excepting Marsh, and it appearing that Marsh discontinued the use of water prior to the abandonment of the ditch, he accordingly is not entitled to service at the present time. Complaint dismissed.

E. H. Armstrong, for Complainants.

C. P. Cutten and *W. B. Hunter*, for Defendant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

The complaint herein was signed by John Pelganti, Joseph Silva, J. P. Arbogast, and Sherman W. Marsh, the first three being farmers, and the last a mill operator.

The complaint alleges that the Pacific Gas and Electric Company, defendant herein, owns and operates a public utility water supply business in Nevada County, and that up to the 7th of August, 1912, the people living on Washington Ridge in Nevada County, including complainants, were supplied with water by defendant; that on the date named, defendant turned water out of the ditch providing this service, and that several former consumers, through improper methods, were induced to dispose of their right to water. It is finally alleged that those who dwell on the ridge, and the public generally, have suffered injury, and complainants pray that the Railroad Commission order defendant to return water to the ditch serving Washington Ridge.

Defendant in answer admits that on August 7, 1912, it turned water out of the ditch named and that it has since refused to run water therein. It is denied that this refusal has resulted in causing any great damage to complainants or any other persons, and denies specifically that any one of complainants purchased water from the defendant and defendant's predecessor in interest within five years or more preceding the date on which the running of water in Washington Ridge ditch was discontinued. Other allegations of complainants and denials of defendant are relevant and conclusive in part, only, but have been given full consideration.

It appears that the Ridge ditch was constructed some fifty years ago, for supplying water for hydraulic mining near Nevada City; that it was abandoned about 1880 when the mines discontinued, and rehabilitated about 1891, when it provided water for the operation of certain quartz mines, and later provided water to a few persons for irrigation, domestic and other uses. The ditch is about twenty miles in length, running through a country of rugged topography, and its use would undoubtedly result in very considerable expense and loss of water through seepage and evaporation.

The defendant filed in Exhibit No. 1 detailed estimate of cost of replacing the ridge ditch in operation, totalling \$2,966.00, and in Exhibit No. 2, a statement of returns from all use on the Ridge ditch, totalling \$11,722.00 for the seven years, 1905 to 1911, inclusive, and \$1,004.00 for the year 1911, of which \$72.00 was for irrigation.

The records show that the use for mining had decreased rapidly during the period covered, and that the use for irrigation alone had produced returns almost negligible in comparison with the cost of operation, and water that would necessarily be lost in transit.

The Pacific Gas and Electric Company, subsequent to the hearing and upon the advice of the Commission, entered into negotiations with the several complainants, looking to a fair settlement with such complainants, for such right as they might have to demand that service

be recommenced. The company now reports having made arrangements with the complainants Pelganti, Silva and Arbogast whereby, upon the Commission so ordering and allowing the discontinuance of service, certain amounts would be paid or privileges granted by the defendant to complainants, whereupon complainants will waive all claim for service.

It is reported that complainant Sherman W. Marsh refused to negotiate with the company in this matter, or to, in any way, relinquish his claim that service should be rendered. Mr. Marsh demands that the water should be carried in the Washington Ridge ditch in so far as his interest is concerned, that he may have service upon demand for the development of power to be used in operating a sawmill. The records in this case shows that Marsh was not using water for milling purposes at the time service was discontinued, and that he at no time used water for agricultural purposes. Such being the case, Marsh is not being deprived of any income for which he depended upon service from this ditch at time of discontinuance, nor is he being deprived of a property value clearly and definitely established and perpetuated only by the continuing in service of that ditch. It would be manifestly unfair to the Pacific Gas and Electric Company to require the assuredly undue expense that it must assume, if, on account of this single complainant, it be required to return the Washington Ridge ditch to service. It would also be unjust to the other consumers of the utility should this be required, and if, in a subsequent proceeding to establish rates, this requirement be a cause for a general increase, however slight.

We hold that complainant Marsh under the circumstances has no legal right to demand service from this ditch.

ORDER.

John Pelganti, Joseph Silva, J. P. Arbogast and Sherman W. Marsh, having made complaint against the Pacific Gas and Electric Company demanding that the Commission order defendant to provide service through the Washington Ridge ditch, and it appearing that the complainants, excepting Sherman W. Marsh, are under certain prearranged conditions willing to withdraw the complaint; that complainant Sherman W. Marsh was not, at the time of discontinuance of service, an established consumer with the right to require continuance; and that the interests of the public would not be furthered by the order complainants prayed for,

It is hereby ordered that the complaint be and it is hereby dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of April, 1916.

DECISION No. 3292.

IN THE MATTER OF THE APPLICATION OF W. F. BOARDMAN AND CHAS. F. LEEGE TO CONSTRUCT A PIPE LINE, AND FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY WILL REQUIRE THE CONSTRUCTION OF THE SAME.

Application No. 2105.

Decided April 28, 1916.

Applicants, operating gas generating and distributing systems in the towns of Huntington Beach and Newport Beach, apply for a certificate permitting the exercise of rights obtained under a franchise authorizing the construction of a gas transmission main for the purpose of conducting natural gas from the oil fields for distribution through their systems. The two towns above mentioned having voted bonds for the purpose of constructing municipally-owned plants, and the Commission having authorized the construction of a transmission line to serve such systems with natural gas, and applicants still desiring to proceed with such construction, application granted, provided that applicants shall file a stipulation to the effect that they shall not hereafter claim a value for such franchise other than the actual cost thereof.

Sanborn & Roehl, Henry E. Carter and Chickering & Gregory, for Applicants.

Leroy M. Edwards for Southern Counties Gas Company of California.

Clyde Bishop, for City of Newport Beach.

REPORT OF THE COMMISSION.

This is an application of W. F. Boardman and Chas. F. Leege for a certificate under the provisions of section 50 of the Public Utilities Act that public convenience and necessity require the construction of a pipe line for the transmission of natural gas from a connection with the high-pressure pipe line of the Southern California Gas Company at or near the intersecting corner lines of section nine (9), ten (10), fifteen (15) and sixteen (16), township three (3) south, range eleven (11) west, S. B. B. and M., and thence in a general southerly direction to an intersection with the transmission pipe line connecting the existing distributing systems of applicants in Huntington Beach and Newport Beach, California.

The history of applicants' predecessor, West Coast Gas Company, a corporation, and a statement of the conditions surrounding applicant's properties at Huntington Beach and Newport Beach has been fully given in our opinion and order this day filed in Application No. 2075 before the Commission.

In response to the petition in that matter, we have this day declared that public convenience and necessity require the construction of a gas transmission main to the city limits of Newport Beach and Huntington Beach, there to be connected with the distributing systems of municipal distribution plants which are to be constructed.

The result of that application will be to throw applicants herein, who are the owners of distributing systems in those cities, into direct competition with municipally-owned plants in those places.

Applicants have agreed to serve natural gas to the consumers at Huntington Beach and Newport Beach at one (1) dollar per thousand cubic feet. It appears from the testimony that it is the plan of applicants herein to purchase the supply of natural gas with which they seek to serve the municipalities herein referred to at a rate of twenty-four (24) cents per thousand cubic feet. In order to transmit it from the place of purchase to the cities of Huntington Beach and Newport Beach, it will be necessary to lay a transmission main a distance of eighteen miles, at a cost of approximately forty thousand (40,000) dollars. The territory along the route of this proposed transmission main is sparsely settled and but a small amount of income can reasonably be expected to be derived from the service thereof.

Unless some circumstance unforeseen arises there will be in the immediate future at the city limits of Newport Beach and Huntington Beach a public utility which is a wholesaler of gas and which is offering gas in wholesale quantities at said city limits at a rate of twenty-nine (29) cents per thousand cubic feet.

When we consider the facts hereinabove set forth, namely: the competition with the municipal plant, the low rate promised by applicant, and the small saving to be made by applicant in the price paid by it for gas at the expenditure of so much capital, the project to us seems a doubtful one. While this Commission has said, and does hold as it has held in this situation, that long continuation of poor service will cause this Commission to grant a utility authority to enter into competition with one already in the field, it has never said, nor does it in this case desire to say, that with the entry of the new utility the existing one shall be forced to abandon its property.

It is extremely doubtful whether the territory served by applicants herein will justify a duplication of facilities. As shown by the decision this day being rendered in Application No. 2075, applicants had such notice of existing conditions as would have put an ordinarily prudent man on inquiry, so that by their failure to act they have brought their competitor upon them. If, in the face of that competition, they desire to expend further sums to prevent the loss of their now existing plant and if, after a careful consideration of all the conditions surrounding them in that field, they desire, upon their own responsibility, to make that expenditure, the Commission will order that they be given the opportunity to do so.

Testimony in this proceeding shows that H. W. Burkhart has applied for a franchise from Orange County for the right to lay the mains for which the certificate of public convenience and necessity herein is sought.

He has agreed that upon the acquisition thereof he will assign the same to applicants. Since the submission of the matter it has been brought to our attention that he has actually acquired that franchise. Without the assignment of it to applicants, and without the declaration of this Commission that public convenience and necessity require the exercise of the rights and privileges granted thereunder, applicants can not exercise any rights in relation to their proposed connection with their distributing system in the above named municipalities.

If Burkhart files an application asking authority to transfer his franchise to applicants, and if applicants file with this Commission a supplementary petition reciting that they have acquired the franchise, the Commission will make its declaration that public convenience and necessity require the exercise by applicants of the franchise and rights and privileges therein contained; provided, that applicants file with the Commission the usual stipulation declaring that applicants, their successors or assigns, will never claim before the Railroad Commission or any court or other public body a value for said rights and privileges in excess of the actual cost to H. W. Burkhart of acquiring said rights and privileges.

ORDER.

W. F. Boardman and Chas. F. Leege having applied for a certificate under the provisions of section 50 of the Public Utilities Act that public convenience and necessity require the construction of a pipe line for the transmission of natural gas from a connection with the high-pressure pipe line of the Southern California Gas Company at or near the intersecting corner lines of sections nine (9), ten (10), fifteen (15) and sixteen (16), township three (3) south, range eleven (11) west, S. B. B. and M., and thence in a general southerly direction to an intersection with the transmission pipe line connecting the existing distributing systems of applicants in Huntington Beach and Newport Beach, California;

And a public hearing having been held and the Commission being fully apprised in the premises, the Railroad Commission of California hereby declares that public convenience and necessity require the construction of a pipe line for the transmission of natural gas from a connection with the high-pressure pipe line of the Southern California Gas Company at or near the intersecting corner lines of sections nine (9), ten (10), fifteen (15) and sixteen (16), township three (3) south, range eleven (11) west, S. B. B. and M., and thence in a general southerly direction to an intersection with the transmission pipe line connecting the existing distributing systems of applicants in Huntington Beach and Newport Beach, California.

The rights granted in the foregoing paragraph can not be exercised until applicants have secured a certificate of public convenience and necessity with reference to the franchise referred to in the opinion herein.

Dated at San Francisco, California, this 28th day of April, 1916.

DECISION No. 3293.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF A RIGHT GRANTED TO APPLICANT UNDER A FRANCHISE.

Application No. 2075.

Decided April 28, 1916.

Applicant applies for a certificate permitting the exercise of franchise rights authorizing the construction of a gas transmission main from a point at Garden Grove to Huntington Beach and Newport Beach for the purpose of delivering natural gas to the municipally-owned plants to be constructed in the latter named towns. Protestants, operating privately-owned plants in the above towns, protest the granting of such certificate, as they intend constructing a transmission main for the purpose of obtaining natural gas for distribution through their own systems. That the service of the privately-owned systems has always been extremely poor, and, though the present owners only recently acquired the system through foreclosure proceedings, they were aware of existing conditions and should have more adequately protected their investment against possible loss of revenue through competition; furthermore, to deny the present application would be blocking the people's expressed purpose of acquiring a municipally-owned plant. Application granted, provided applicant shall file with the Commission a stipulation to the effect that it shall never claim a value for such franchise other than the actual cost thereof.

Leroy M. Edwards, for Applicant.

Chickering & Gregory, Sanborn & Roehl, and Henry E. Carter, for
Intervenors, *W. F. Boardman and Charles F. Leege*.

REPORT OF THE COMMISSION.

This is an application by Southern Counties Gas Company of California, a corporation, for a certificate under the provisions of section 50 of the Public Utilities Act that public convenience and necessity require the exercise by said corporation of rights and privileges under a certain franchise heretofore granted to C. S. S. Forney (Ordinance No. 84) on May 16, 1911, which said franchise was given by the board of supervisors of Orange County, California, to the said Forney to maintain and operate a system of gas pipes in a certain portion of the highways within the county of Orange. Application for such certificate of public convenience and necessity was filed with this Commission on February 3, 1916.

The franchise under which applicant seeks to operate was issued under the Broughton Act and contains a clause providing that all construction work under said franchise must be completed within three years. Different constructions have been placed upon that provision in the act and the applicant, in order to remove any doubt as to the validity of its right to construct the extension herein referred to, has, since the submission of this application, applied for a new franchise covering the construction hereinafter mentioned. Upon the obtaining of the franchise sought the Commission will, by a supplemental order, issue a certificate of public convenience and necessity thereon.

Applicant is engaged in the business of manufacturing and distributing gas for heat, light and power purposes in certain of the cities and rural districts in Orange and Los Angeles counties. The system in Orange county consists of production plants, transmission mains and distributing systems which supply the cities of Whittier, Fullerton, Anaheim, Santa Ana, Orange and other municipalities, also unincorporated territory. Natural gas of about 1,150 B. t. u. per cubic foot heat content is obtained from the Whittier-Fullerton oil fields for the service in this territory. By this application it seeks to extend its transmission mains from its present system at Garden Grove to the city limits of Newport Beach and Huntington Beach, California—there to wholesale natural gas to municipally-owned gas distributing systems, for the construction of which systems bonds have been voted, but which systems have not as yet been built.

To serve the towns of Huntington Beach and Newport Beach applicant proposes to construct a four-inch high pressure gas transmission main fourteen miles in length from its present system at Garden Grove in a southerly and westerly direction to the limits of Huntington Beach and thence to Newport Beach. It is estimated that the line will cost approximately \$35,000.00, and the minimum revenue to be obtained therefrom will be in excess of \$10,500.00 per year.

Within these municipalities West Coast Gas Company has heretofore operated, and its successor is now operating, distributing systems supplying the communities with artificial gas.

At the hearing, held on February 23, 1916, Charles F. Leege and W. F. Boardman filed petitions in intervention, in which they opposed the granting of the certificate of public convenience and necessity and alleged, in substance, that they are the owners of the gas plants formerly owned and operated by West Coast Gas Company, a corporation, in the municipalities of Huntington Beach and Newport Beach; that they formerly owned certain of the bonds of that company; that they became the owners of such company by virtue of foreclosure proceedings taken against said company for failure to pay the interest due on said bonds;

and that the granting of the certificates of public convenience and necessity to applicant herein would result in a duplication of gas distributing facilities in those municipalities, and also in the ultimate destruction of their investment in those cities.

Later the intervenors in this proceeding filed with this Commission an application (No. 2105) for a certificate of public convenience and necessity to permit them to construct a similar pipe line from the connection with the high-pressure pipe line of Southern California Gas Company at or near the intersecting corner lines of sections nine (9), ten (10), fifteen (15) and sixteen (16), township three (3) south, range eleven (11) west, S. B. B. and M., thence in a general southerly direction to a connection with the transmission pipe line connecting the distributing systems of the former West Coast Gas Company at Huntington Beach and Newport Beach, and to serve the intervening territory.

A public hearing was held in relation thereto. Inasmuch as the principal object sought to be attained by both applications is to connect with distributing mains in the municipalities of Huntington Beach and Newport Beach, it is unnecessary to separately consider the two applications. Therefore, we will consider the situation as a whole and may, in the course of the discussion, refer to testimony brought out at either of the hearings on the applications for a certificate and not confine ourselves to the testimony taken in either particular one.

As has been stated above, there is an existing utility within each of these communities, and in a proceeding of this nature it is pertinent to inquire into the history of that utility, and particularly into the manner in which it has fulfilled its duty to serve the public.

West Coast Gas Company, a corporation, is a consolidation of Home Gas and Electric Company and The West Coast Gas, Light and Fuel Company. Home Gas and Electric Company was, at the time of consolidation, rendering service in Newport Beach and The West Coast Gas, Light and Fuel Company in the vicinity of Bellflower, California. The plan of consolidation and financing by which these properties were merged and a bonded indebtedness created, was examined into and passed upon by this Commission in Application No. 257 (Volume 1, Opinions and Orders of the Railroad Commission of California, page 876).

Through the years of 1914 and 1915 the parties in control of West Coast Gas Company were unable to, or at least did not, pay the interest upon the bonds as the same became due. Finally, in July, 1915, the company defaulted altogether on an installment of the bond interest, and after further delay the bondholders foreclosed upon the property and took possession of the same on January 4, 1916.

In the meantime, the service rendered by West Coast Gas Company to its consumers in Newport Beach and Huntington Beach was intolerable. The condition is described by counsel for intervenors in his brief in the following manner:

“Through inefficient management the business of the company did not prosper and consumers were forced to discontinue gas because of the *miserable service*.”

During the year 1915 numerous complaints were filed with this Commission against the service rendered by that company. In the fall of 1915 the citizens of those communities, unable to tolerate the conditions any longer, instituted proceedings to vote bonds for the construction of municipally-owned gas distributing systems. The result of the vote of the people upon the issue of whether or not they would bond their cities to provide adequate service furnishes striking testimony of the frame of mind of the public upon the question of the service to which they had been subjected.

On the 28th day of December, 1915, the city of Newport Beach voted on the question of issuance of bonds with the following result:

For the bonds.....	253
Against the bonds.....	17

At Huntington Beach on the same date the vote was as follows:

For the bonds.....	243
Against the bonds.....	19

Thereafter, in response to an invitation to submit proposals for a supply of natural gas, the applicant herein agreed to furnish the cities with an adequate supply of natural gas of 1,000 B. t. u. at the following rates:

29 cents per 1,000 cubic feet for the first	50,000 cubic feet per day.
24 cents per 1,000 cubic feet for the next	25,000 cubic feet per day.
22 cents per 1,000 cubic feet for the next	25,000 cubic feet per day.
20 cents per 1,000 cubic feet for all over	100,000 cubic feet per day.
Minimum guaranteed to be used, 50,000 cubic feet per day.	

Unless there is some justification for a long continuation of the admittedly bad service, under the decisions laid down by the Commission it is our duty to grant applicant's petition. The principles which guide the Commission in a determination of a matter of this kind were enunciated in the case of *Pacific Gas and Electric Company vs. Great Western Power Company* (Volume 1, Opinions and Orders of the Railroad Commission of California, at page 203). The following excerpt from that decision we think applicable here:

“And hence if we should, in the very first important contested application for a certificate of public convenience and necessity, announce the rule that where the major portion of a territory is served, though inefficiently and at high rates, the result of such

application will be merely to put the existing utility upon its good behavior, then we would in effect, be saying to all the offending utilities of this State, if there be any, 'you may proceed with your present methods until competition knocks at the door of your territory and only then will you be compelled to do justice,' and we would be saying to every new public utility 'you will knock in vain at the door of any field now served by a utility.' The result would be that old utilities would keep their territory unspurred by the fear of competition, knowing always that only when it was imminent need they prepare to do justice to their patrons, and the new utilities, having no incentive to apply for permission to go into territory more or less completely, but inefficiently served, would limit themselves to new fields within which they would soon, in turn, assume the same attitude as would be assumed by the old utilities now doing business within the State. Rather, do we announce the rule that only until the time of threatened competition shall the existing utility be allowed to put itself in such a position in reference to its patrons that this Commission may find that such patrons are adequately served at reasonable rates. By announcing this principle we hope we shall hold out to the existing utilities an incentive which will induce them voluntarily, without burdening this Commission, or other governmental authorities, to accord to the communities of this State those rates and that service to which they are in justice entitled, and to the new utilities we shall likewise hold out the incentive that on the discovery by them of territory which is not accorded reasonable service and just rates, they may have the privilege of entering therein if they are willing to accord fair treatment to such territory."

Counsel for intervenors attempted to justify their position by placing the responsibility upon West Coast Gas Company and pleaded that the bondholders, the intervenors here, should not be held to blame for the derelictions of that company. Testimony was introduced to show that since the taking over of the property by the intervenors, the service rendered by them to consumers of gas in the municipalities had been greatly improved.

We can not accept the contention of the bondholders as an excuse for the failure of these bondholders to exercise that care and prudence which investors usually maintain to safeguard their investment from loss, whether that loss be through a depreciation of the physical properties, bad management or a loss of income arising from added competition.

Through the years 1914 and 1915 the parties in control of West Coast Gas Company did not pay the interest upon the bonds promptly as it became due. Not until January 4, 1916, was the control of the property taken from their hands. Intervenor testified that throughout this entire period they made no inquiry as to conditions surrounding their investment. Under the terms of the trust deed given to secure the bonds, they were entitled to possession without foreclosure whenever

there was a failure on the part of West Coast Gas Company to keep the plant and the service in a condition of efficiency.

The two intervenors here were owners of 85 per cent of the total bond issue of \$100,000.00, and a failure to pay interest on that account would, it seems to us, suggest an inquiry as to why it was not paid. Such inquiry would have directed their attention to the income of the company, its expenses, the service it was giving, and all those things which are necessarily factors in the production of bond interest.

Wherefore, we are forced to the conclusion that the intervenors here must be charged with a knowledge of conditions in the same manner as their debtor, West Coast Gas Company, would be charged with a knowledge of the same conditions if that company and not the intervenors here were objecting to the granting of the petition herein.

A further reason, however, why applicant's petition should be granted, lies, we think, in the fact that the people of two municipalities demand municipally-owned gas distributing systems and have the means at hand to procure, at a cheap rate, an adequate supply of natural gas. A denial by this Commission of a consummation of their negotiations to that end would, in effect, put this Commission on record as improperly blocking a municipality in its efforts to acquire and operate its own utilities.

For the reasons hereinabove set forth, in our opinion the application should be granted.

ORDER.

Southern Counties Gas Company of California, a corporation, having applied for a certificate under the provisions of section 50 of the Public Utilities Act, that public convenience and necessity require the exercise by said corporation of rights and privileges granted by the board of supervisors of Orange County, California, in Ordinance No. 84, adopted on the 16th day of May, 1911;

And a public hearing having been held and the Commission being fully apprised in the premises, the Railroad Commission of California declares that public convenience and necessity require the laying by Southern Counties Gas Company of California, a corporation, of a four-inch high-pressure gas transmission main from its present system at Garden Grove in a southerly and westerly direction to the city limits of Huntington Beach, and thence south to the northerly city limits of Newport Beach, Orange County, California; provided that Southern Counties Gas Company of California shall first have secured from the Railroad Commission a supplemental order reciting:

1. That Southern Counties Gas Company of California, a corporation, has filed with the Railroad Commission of California a stipulation, duly authorized by its board of directors, declaring that Southern Counties Gas Company of California, a corporation, its successors and assigns,

will never claim before the Railroad Commission or any court or other public body a value for the franchise to be secured, in excess of the actual cost to Southern Counties Gas Company of California, a corporation, of acquiring such franchise.

2. That Southern Counties Gas Company of California, a corporation, has filed with the Railroad Commission a copy of a duly executed and acknowledged agreement with the cities of Newport Beach and Huntington Beach for the supply to said cities of natural gas of 1,000 B. t. u. per cubic foot heat content at the prices set forth in the preceding opinion.

Dated at San Francisco, California, this 28th day of April, 1916.

DECISION No. 3294.

IN THE MATTER OF THE APPLICATION OF UKIAH WATER AND
IMPROVEMENT COMPANY FOR AUTHORITY TO INCREASE RATES

Application No. 2146.

Decided April 29, 1916.

Applicant applies for and is granted permission to establish an increased schedule of rates for water to the town and inhabitants of Ukiah. Meter rates: Monthly minimum 50 cents, entitling consumer to 500 cubic feet; next 1,500 cubic feet, 10 cents per 100; over 2,000 cubic feet, 6 cents per 100; street lighting and sewer flushing at regular meter rates. Schedule of flat rates also established.

Robert Duncan, for Applicants.

Chas. M. Mannon, city attorney, for Town of Ukiah City.

REPORT OF THE COMMISSION.

Applicant is engaged in supplying domestic water to the inhabitants of Ukiah, Mendocino County, a city with a population of about 3,000.

Applicant was incorporated July 18, 1892, with an authorized capital stock of \$50,000.00, divided into 500 shares of the par value of \$100.00 each, all outstanding. Its property is not encumbered. Its sole indebtedness consists of \$43,300.00 of promissory notes. Soon after it began operating it purchased, for \$7,000.00, the property of Ukiah Water Company, including 40 acres of land on Orr Creek, with several springs, a small diversion dam in Orr Creek, with a system of small pipes and certain claimed water rights on Orr Creek and Gibson Creek. The pipe system proved wholly inadequate and was soon abandoned and the present plant on Gibson Creek constructed. Owing largely to the loss of books and records in the fire of 1906 at Santa Rosa, where applicant's main office is located, and to incomplete accounts and records, because of the manner in which they have been kept, it has not been possible

to determine accurately the original investment of applicant. From the testimony, however, it appears to have been upwards of \$80,000.00.

Applicant's earnings over a four-year period, as shown by its annual reports to the Commission, were:

	1912	1913	1914	1915
Operating revenue -----	\$10,550 80	\$10,310 25	\$10,307 24	\$10,229 00
Operating expense -----	5,486 11	6,173 42	6,133 16	5,296 45
Net operating revenue -----	\$5,064 69	\$4,136 83	\$4,174 08	\$4,932 55
Nonoperating revenue ----	158 65			
Gross income -----	\$5,223 34	\$4,136 83	\$4,174 08	\$4,932 55
Deductions:				
Interest -----	\$4,117 00	\$4,385 50	\$3,153 50	\$2,921 00
Other deductions -----			1,290 00	1,840 00
Total deductions ----	\$4,117 00	\$4,385 50	\$4,443 50	\$4,761 00
Surplus for year-----	\$1,106 24	*\$248 67	*\$269 42	\$171 55

*Loss.

Its balance sheet submitted as of December 31, 1915, is as follows:

<i>Assets.</i>		<i>Liabilities.</i>	
Fixed capital -----	\$98,020 00	Capital stock -----	\$50,000 00
Cash -----	659 69	Notes payable -----	43,300 00
		Miscellaneous -----	5,379 69
Total -----	\$98,679 09	Total -----	\$98,679 69

The item "miscellaneous \$5,379.09" is shown by the report to consist of income invested in fixed capital \$420.00, fixed capital \$3,209.09, notes payable \$1,750.00. Comparison with report for 1914 indicates that \$1,750.00 was used to reduce notes payable and erroneously included as a deduction in income account. The item \$3,209.09 was an amount credited to fixed capital in report as of December 31, 1914, and for some unexplained reason recharged to fixed capital in report as of December 31, 1915.

Applicant's water supply is obtained from Gibson Creek for about five months of the year, and for the remainder of the year from a 6 foot by 6 foot concrete-lined well, 21 feet deep, located about 300 feet from the channel of the Russian River and about 3,000 feet northeast of the city limits. Its main pumping plant is operated by a 75 horsepower electric motor, with energy obtained from the municipally-owned distributing system of the city. The well and station were constructed in 1907 and 1908. It also has an auxiliary steam pumping plant which can be operated in case of need in connection with a 6 foot well 17 feet deep. The supply from both these pumping stations is delivered direct into a distributing reservoir.

The water from Gibson Creek is diverted into a concrete settling box at a point near the fish hatchery, about 3,000 feet northwest of the city limits, by a concrete intake dam. It is transmitted about 3,000 feet into the distributing reservoir, which is 36 feet by 70 feet and 11 feet

deep, located near the western city limits at an elevation of about 200 feet above the level of the town, thus affording good pressure and fire protection. From the reservoir it is distributed to 766 services, of which 145 are metered. Fire hydrants are owned and installed by the city.

Neither applicant nor the city presented any appraisal of the plant or engineering testimony, but each relied upon the report and appraisal of Mr. H. A. Whitney, one of the assistant engineers of the Commission. His estimated cost new of the plant and equipment in active service, including wells, pump, motor, electric pole line, buildings, diversion dam, settling box, and reservoir is \$52,568.00. The 3½-acre reservoir site has a present value, as stipulated by the city and applicant, of about \$662.00. The auxiliary pumping plant, of the estimated cost new of about \$3,000.00, Mr. Whitney now values as an auxiliary plant at about \$1,000.00.

The yearly average amount of water used is about 175 gallons per day per capita, estimating the population at 3,000. Complete metering of the system would probably reduce it to 110 gallons or less.

A detailed study of the meter records shows that the monthly use of water is as follows:

- 40.58 per cent use 600 cubic feet or less.
- 20.71 per cent use 600 to 1,200 cubic feet.
- 14.51 per cent use 1,200 to 2,000 cubic feet.
- 24.2 per cent use over 2,000 cubic feet.

The present metered rate established by ordinance is 10 cents per 1,000 gallons, with a minimum monthly charge of 50 cents. The minimum has been \$1.00 in alternate years.

The estimated future cost of operation, based on expenses for the years 1914 and 1915, and upon the present cost of electric power furnished by the city's municipally-owned distribution system, under rates fixed by Decision No. 3097, of February 14, 1916, with allowance for depreciation, and estimated revenue based on 1915 water use at the new rates are:

*Gross revenue	\$12,000 00
Fuel and power.....	\$2,100 00
*Materials and supplies.....	300 00
*Repairs, rental of office, etc.....	500 00
*Extra labor	700 00
*Administration, bookkeeping and legal expenses.....	960 00
Salaries	2,160 00
Taxes	746 00
	<hr/>
	\$7,466 00
Anticipated increase in cost of electric energy at new rates	1,000 00
Sinking fund for depreciation.....	712 00
	<hr/>
	9,178 00
	<hr/>
*Net revenue	\$2,822 00
*Estimated.	

About 26½ per cent of the electric energy purchased by the city is used by applicant, enabling the city to secure the advantage of a lower rate for its inhabitants, under the sliding scale of rates paid by it. Largely because of this the schedule of water rates provided herein will increase the burden borne by the city and decrease that of the other consumers. The utility loses considerable money through the present measured rate of 3 cents per thousand gallons for street sprinkling. This we have remedied by providing for such water the usual metered rate paid by all other consumers. The fire service rate established for water used for fire fighting is fixed in consideration of the requirement that the utility maintain and repair this portion of the city's property.

ORDER.

Ukiah Water and Improvement Company having applied to the Railroad Commission for authority to increase its rates charged to the inhabitants of Ukiah and vicinity for the distribution of water, and a public hearing having been held thereon and the matter having been submitted and being now ready for decision,

It is hereby found as a fact by the Railroad Commission of the State of California that the said rates in so far as they differ from the rates herein found to be reasonable, are unreasonable and unjust, and the rates hereinafter set out are hereby found to be just and reasonable rates to be charged for the distribution of water by Ukiah Water and Improvement Company to its consumers; and basing its order on the foregoing findings of fact and the further findings of fact set out in the opinion preceding this order,

It is hereby ordered that Ukiah Water and Improvement Company be and it is hereby directed to establish and to file with this Commission within twenty days from the date of this order the following schedule of monthly rates to be charged for service of water to the inhabitants of Ukiah and vicinity, with rules and regulations governing the service, to wit:

Meter Rates, Monthly.

Minimum for 500 cubic feet, 50 cents.
Between 500 cubic feet and 2,000 cubic feet, 10 cents per 100 cubic feet.
Over 2,000 cubic feet, 6 cents per 100 cubic feet.
Street sprinkling and sewer flushing at meter rates.

Monthly Flat Rates.

Dwelling houses (not including baths or toilets).....	\$1 00
Private toilets, each.....	20
Private urinals (with self-closing valve), each.....	10
Private urinals (without self-closing valve), each.....	25
Bathtubs, each.....	20
Private stables, including one horse and vehicle.....	25
For each additional animal.....	10
Sprinkling and irrigation, per square yard sprinkled or irrigated.....	007
Barber shops, each.....	1 00
Public bathtubs, each.....	1 00
Additional tubs installed in same establishment, each.....	50

Public water-closets, each.....	\$0 50
Watering troughs	1 00
Public halls	1 00
Stores	1 00
Butcher shops, bakeries, restaurants, saloons, creameries, groceries.....	2 00
Printing offices and photograph galleries.....	2 00
Livery stables and stage barns.....	3 00
Blacksmith shops	1 50
For building and construction purposes, per barrel of lime, cement, or material mixed	10
Fire hydrants, per month.....	50
Minimum payment to be for the number of hydrants in place April 1, 1916.	
Hydrants are to be kept in repair by applicant.	

Within sixty days from the date hereof, meters shall be installed by applicant, if not already installed, at the courthouse, town hall and engine house, and all schools, hospitals, fountains, breweries, laundries, hotels, boarding houses, lodging houses, drug stores and dental offices. Until said meters are installed, the flat rates now in force shall apply.

Other services may be metered at the option of the company or the consumer.

Metered service, once installed, shall not be changed to a flat rate service without the written consent of the Commission.

All meters installed shall be furnished and installed by applicant at its sole cost and expense.

Dated at San Francisco, California, this 29th day of April, 1916.

DECISION No. 3295.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA WHARF AND WAREHOUSE COMPANY FOR AN ORDER AUTHORIZING AN INCREASE IN RATES FOR THE STORAGE OF GRAIN IN ITS WAREHOUSES LOCATED IN MERCED COUNTY.

Application No. 2096.

Decided April 29, 1916.

Applicant, operating warehouses in various parts of the State, applies for permission to increase rates for the storage of grain in its warehouses in Merced County only. The following schedule established: Receiving, weighing and loading, 35 cents per ton; storage, first month, 50 cents per ton; two months, 75 cents per ton; three months, or balance of season, \$1.00 per ton. These rates to include all resacking, piling, weighing, etc.

F. W. Henderson, for Applicant.

REPORT OF THE COMMISSION.

This is an application by California Wharf and Warehouse Company to increase rates for the storage and incidental handling of grain in its

warehouses located at Merced, Tuttle, Planada, Le Grand, Dickinson and Marguerite, Merced County, California. Applicant also operates warehouses at Port Costa, Stockton and Brentwood and owns some warehouse property in San Francisco, where its principal place of business is located. The same seasonal rate of one (1) dollar per ton on grain prevails at each of applicant's warehouses, although rates for the shorter periods of storage at warehouses located in Merced County differ somewhat from the less-than-season charges assessed at applicant's warehouses in other counties.

Applicant's present rates for the storage of grain are as follows:

Receiving, weighing and loading grain through warehouse for immediate shipment	\$0 25 per ton
Receiving, weighing and storing until September 1st.....	50 per ton
Receiving, weighing and storing until January 1st.....	75 per ton
Receiving, weighing and storing until June 1st.....	1 00 per ton

These rates if increased as requested would be modified in the following manner:

Weighing and shipping through warehouse.....	\$0 50 per ton
Storage, first month.....	50 per ton
Storage, second month.....	25 per ton
Storage, third month and balance of season.....	25 per ton

As may be seen, grain is stored at all of applicant's warehouses in Merced County from time of harvest to September 1st for 50 cents per ton, and to January 1st for 75 cents per ton. At Port Costa, Stockton and Brentwood 50 cents per ton is charged for the first two months, or 75 cents per ton if stored for three months. Whether the one or the other system of rates would be advantageous to the patron would depend entirely upon when such patron offered his grain for storage. These differences appear to have been largely matters of custom in the particular vicinity affected, and not the result of an effort to establish a system of rates based upon any theory of rate making.

In addition to the storage of grain, applicant receives considerable quantities of hay and flour, the former at Merced and Le Grand only. A small amount of wool is also handled. The company's annual reports to the Commission for 1914 and 1915 do not show the tonnage segregation as to commodities, but grain was handled as follows:

Warehouses.	1913-14, tons	1914-15, tons
Port Costa warehouse.....	47,300	104,100
Interior warehouses	10,800	39,100
Totals	58,100	143,200

These reports, which are made under the direction of Balfour, Guthrie & Co. of San Francisco, manager of applicant herein, show a

net profit of \$3,119.03 for the year 1913-14 and \$30,817.08 for 1914-15. However, it should be noted that this showing includes the whole of applicant's business, about 75 per cent of which was transacted at Port Costa.

This application seeks to adjust rates in Merced County only, but no segregation of accounts was submitted which would enable the Commission to determine whether applicant is in fact receiving a reasonable return on its money invested there. The company's agent, who was the principal witness for applicant at the hearing, while not able to furnish figures to show the result of operations in Merced County, as distinguished from the company's activities elsewhere, admitted that, taken as a whole, the income of the company is satisfactory and that by the application the company seeks an adjustment of rates on the theory that the present rates are inequitable in some instances and below actual cost of service in others, and not for the purpose of taking care of any general deficit.

Testimony indicated that not more than 1 per cent on an investment of approximately \$40,000.00, or about \$400.00, would be the aggregate increase if allowed, assuming that the practices of patrons at the time of storage would not change under new conditions. There were no figures to show upon what class of patrons the additional burden would fall, nor could it be determined whether any advantage would accrue either to warehouseman or patrons, except only as to increased revenue itself. In other words, a change in the basis upon which storage charges are assessed might result in a falling off in the amount of grain offered for storage, bring about shorter periods of storage, or otherwise enable patrons to take advantage of the changed conditions; or, on the other hand, pay higher rates because of failure or inability to utilize the more favorable storage periods.

The evidence showed that during the year 1915 one hundred forty-six (146) farmers, or storers, took advantage of the rates and facilities offered by applicant at its ten warehouses located in Merced County, about twenty of whom appeared at the hearing to protest against an increase in warehouse rates. The protest, however, was withdrawn when it was learned that the total increase in revenue through the company's entire warehouse business in the county probably would be less than \$400.00 per annum. It was also understood that should the increase be allowed and the burden fall on any class of patrons in such manner as to amount to discrimination, the Commission, upon notice, would take prompt action to remove such discrimination. There was no complaint from protestants bringing into question the efficiency of the service rendered by applicant, nor do the records of the Commission disclose any such complaint.

It was shown by testimony that applicant's warehouses involved in this proceeding have been in service from ten to twenty-five years and represent a capital investment as follows:

Location of warehouse	Size of warehouse	Value
Merced, hay warehouse.....	50 x 150	\$5,000 00
Merced, grain warehouse.....	100 x 150	10,000 00
Tuttle.....	60 x 150	4,000 00
Planada, wooden warehouse.....	50 x 150	2,500 00
Planada, iron warehouse.....	60 x 150	4,000 00
Le Grand, wooden warehouse.....	50 x 150	2,500 00
Le Grand, iron warehouse.....	60 x 250	6,000 00
Dickinson.....	50 x 150	3,500 00
Marguerite.....	60 x 150	4,000 00
Total.....		\$41,500 00

Applicant has paid dividends as follows:

1911—\$5.00 per share on 2,500 shares.....	\$12,500 00
1912—None.	
1913—\$5.00 per share on 2,500 shares.....	12,500 00
1914—None.	
1915—\$10.00 per share on 2,500 shares.....	25,000 00

Thus it appears that \$4.00 per share has been the average dividend paid since 1911, each share being valued at \$100.00.

Applicant maintained that the actual cost of receiving, weighing and loading grain through its warehouses is in excess of 25 cents per ton, as at present charged, and that such service is worth not less than 50 cents per ton. The evidence supported this contention. It was also argued by applicant that the present rates for storage are not only too low for the service rendered, but that the same are inequitable when considered from the storer's standpoint, in that a person whose grain is placed in the warehouse in June may have the benefit of three months storage, or to September 1st, for the same charge as that paid by a grower who offers his grain for storage during the last days of August—the rate being fifty cents per ton to September 1st in either case.

While there may be but little room for doubt as to the actual advantage in favor of the farmer who is ready to avail himself of the longer periods of storage at a given rate, the same object sought by warehouseman—the elimination of inequalities as to storage periods—may be accomplished by extending such periods so as to afford storage a specified number of months after grain has been received. This, of course, would effect a reduction in revenue to the company. Under applicant's proposed schedule there would at least result this advantage—there would no longer be any doubt (as there seems to be at the present time) as to proper storage charge to assess on grain offered after September 1st and removed before January 1st, following. Applicant,

under its rate on file with the Commission, charges the owner of grain with the cost of resacking, which, of course, may affect the market price when the grower disposes of his grain.

We believe from the testimony that the charge of 25 cents per ton for passing grain through the warehouse should be increased to 35 cents per ton. Applicant's patrons, as represented at the hearing, admitted that this service was reasonably worth more than 25 cents per ton. Although the evidence was not conclusive as to the necessity for any other adjustment of rates when considered from a revenue standpoint, uniformity and the removal of possible discrimination in the service suggest that the rates prayed for be authorized, but only on the condition that all ordinary resacking (including sacks) be done at applicant's expense.

Rates hereinafter authorized will not affect storage at any points other than applicant's warehouses located at Merced, Tuttle, Planada, Le Grand, Dickinson, and Marguerite, respectively, in Merced County, nor in any manner change the rates or service applying to commodities other than grain at the warehouses named, all other rates, rules or regulations remaining as now lawfully on file with the Commission.

ORDER.

California Wharf and Warehouse Company, a corporation, having applied to the Railroad Commission for an order authorizing an increase in rates applying at its warehouses located at Merced, Tuttle, Planada, Le Grand, Dickinson and Marguerite, and a public hearing having been held upon said application and said matter having been submitted and being now ready for decision,

The Railroad Commission of California hereby finds as a fact that the rates of applicant now in effect are unjust and unreasonable in so far as they differ from the rates which applicant is herein authorized to charge, which rates are hereby found to be just and reasonable.

Basing its conclusions upon the foregoing finding of fact and upon the other findings contained in the opinion preceding this order,

It is hereby ordered that the applicant, California Wharf and Warehouse Company, a corporation be and the same hereby is authorized to charge and collect the following rates for the storage and incidental handling of grain at each of its warehouses located in Merced County, viz:

Receiving, weighing and loading grain through warehouse on cars	\$0 35 per ton
Storage for one month.....	50 per ton
Storage for two months.....	75 per ton
Storage for three months and balance of season ending May 31st	1 00 per ton

It is further ordered that the service in connection with storage rates above authorized shall consist of receiving, weighing, storing for the period indicated, ordinary resacking (including sacks), and loading

out of grain and such other service as is usually given by warehousemen similarly situated, it being understood that the term "season" shall extend from June 1st of a given year to and including May 31st of the year following.

It is further ordered that the rates herein authorized shall become effective June 1, 1916.

Dated at San Francisco, California, this 29th day of April, 1916.

DECISION No. 3296.

IN THE MATTER OF THE APPLICATION OF TONOPAH AND TIDEWATER RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE ABANDONMENT OF ITS "RYAN BRANCH" AND THE SALE OF A CERTAIN PORTION THEREOF.

Application No. 2127.

IN THE MATTER OF THE APPLICATION OF THE DEATH VALLEY RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE PURCHASE OF THREE AND NINETEEN-HUNDREDTHS MILES OF TRACK FROM THE TONOPAH AND TIDEWATER RAILROAD COMPANY.

Application No. 2128.

Decided April 29, 1916.

Conditions warranting, Tonopah and Tidewater Railroad authorized to abandon service on a portion of its trackage 6.68 miles long, known as the Ryan branch, running to an abandoned borax mine, and to sell to the Death Valley Railroad Company 3.19 miles thereof for the sum of \$18,840.21, removing its rails and materials from the balance. Death Valley Railroad authorized to acquire such trackage at the price named and to issue sufficient bonds to be sold at not less than 90 in payment therefor.

H. Eschrich and C. M. Rasor, for Applicants.

REPORT OF THE COMMISSION.

Tonopah and Tidewater Railroad Company, a common carrier, operating a line of railroad in California and Nevada, owns and operates a branch line known as the Ryan branch extending from Death Valley Junction on its main line, a distance of 6.68 miles, southwesterly to the Lila C borax mine. It applies to the Railroad Commission for authority to abandon service on all of said branch and to sell to Death Valley Railroad Company that portion of the branch extending from its main line to Horton, a distance of 3.19 miles. Death Valley Railroad Company applies for authority to purchase the property.

The Ryan branch was completed and began operation about July or August, 1907, for the purpose of transporting borax ore from the Lila C mine. Borax deposits have been entirely worked out and the mine shut

down. The last shipment was made in December, 1914, and the last traffic over the line was the transportation of the population and their household goods to a new location of the post office of Ryan at the western terminus of Death Valley railroad, near the Biddy McCarty borax mine. There are no human habitations within eight or ten miles on either side of the Ryan branch, except at Horton, where the Death Valley railroad joins the Ryan branch. The region in which both lines operate is desert, with a rainfall of about two inches per annum in a wet year, and not capable of agricultural development at present. There is no public to be served by the Ryan branch and no prospect of traffic being developed. There appears to be no reason why the application to abandon service should not be granted.

Death Valley Railroad Company operates a line of railroad from Horton on said Ryan branch to the Biddy McCarty mine, a distance of 17.16 miles, where the Ryan post office is now located, with the population formerly located at the Lila C mine. Death Valley Railroad Company also operates under a third rail agreement over that portion of the Ryan branch extending from Horton 3.19 miles to Death Valley Junction. Under the agreement it has laid a third rail to accommodate its narrow gauge rolling stock.

The board of directors of Tonopah and Tidewater Railroad Company, at a meeting held February 2, 1916, resolved to discontinue operation of the Ryan branch and to request The Mechanics Trust Company, a New Jersey corporation, as trustee under the mortgages or trust deeds securing the payment of its 500,000 pounds first mortgage 5 per cent gold bonds and its 250,000 pounds redeemable 5 per cent sterling mortgage bonds to consent to and authorize the disposal of the entire Ryan branch by selling the 3.19 miles extending from the main line to Horton at a price to be fixed by an appraiser to be appointed by the trustee as provided in said instruments; and by abandoning service on the remaining 4.31 miles of the branch line and by taking up the rails and using them in constructing a spur track to the Tecopa concentrator or other necessary spurs or sidings, which would also, under the terms of said instruments, become subject to their lien; and requesting it to release the entire branch from the said liens.

The trustee at a regular meeting of its board of directors empowered its proper officers to release the Ryan branch from the lien of the mortgages or trust deeds, and to sanction the sale of the 3.19 miles, and the abandonment of the 4.31 miles, and to appoint an appraiser to determine the value of the property to be sold, and provided that the proceeds of the sale should be held by the trustee under the terms of said instruments.

C. M. Rasor, chief engineer of both applicants, was appointed by The Mechanics Trust Company as such appraiser. He reported his

appraisement to said trust company and submitted a copy thereof in evidence at the hearing hereon. His appraisement shows the reproduction cost new, less depreciation, to be \$18,840.21, summarized as follows:

	Reproduction cost new	Present value
Grading -----	\$4,960 00	\$4,960 00
Ties -----	7,591 27	3,036 51
Rails -----	5,026 07	5,026 07
Track fastenings -----	1,005 48	1,005 48
Tracklaying and surfacing -----	4,582 44	4,582 44
Telephone line -----	321 73	229 71
Totals -----	\$23,486 99	\$18,840 21
Average per mile -----	\$7,362 69	\$5,906 02

The deeds of trust referred to provide for the sale by the company of unessential property at its appraised value, the release thereof by the trustee from the lien of the deeds of trust and the substitution of other property therefor, or the investment of the proceeds by the trustee. The method of selection of the appraiser is not provided.

Death Valley Railroad Company requests an order by the Commission authorizing it to purchase the 3.19 miles of road referred to at a price based upon an appraisal by a duly qualified appraiser, the amount to be a fair and equitable valuation within the judgment of the officers of the company and of this Commission. It also wishes authority to reimburse its treasury for the said outlay by the sale of its first mortgage 5 per cent sterling sinking fund bonds heretofore authorized by the Commission.

For the present purposes there is no need to express an opinion as to the actual sale value or commercial value of the property to be sold; or as to the methods used by Mr. Rasor in his appraisal. No appraisal has been made by the Commission's engineers for the purposes of these applications, but from information obtained in previous applications, and in evidence at the hearing herein, we are satisfied with the sale figure arrived at by Mr. Rasor for the purposes of these applications.

ORDER.

Tonopah and Tidewater Railroad Company having applied to the Railroad Commission for an order authorizing it to abandon service on the line of railroad operated by it extending southwesterly from Death Valley Junction, a distance of 6.68 miles to the Lila C borax mine, and known as the Ryan Ranch, and to remove rails and materials from the 3.49 miles thereof extending southwesterly from Horton, and to remove one rail from the 3.19 miles thereof lying between Death Valley Junction and Horton, and to sell said 3.19 miles; and Death Valley Railroad Company having applied to the Railroad Commission for an

order authorizing it to purchase said 3.19 miles, and a public hearing having been held thereon and it appearing from the testimony submitted that the borax deposits at said mine have been entirely exhausted; that no passengers or freight have been transported by Tonopah and Tidewater Railroad Company over said Ryan branch since December, 1914, and there being almost no inhabitants living in the vicinity thereof and no likelihood of traffic being developed along said line,

It is hereby ordered that Tonopah and Tidewater Railroad Company be and it is hereby authorized to abandon freight and passenger service over that portion of its system known as the Ryan branch in Inyo County, California, lying between engineer's stations 16+00 and the terminus at engineer's station 368+50, a distance of 35,250 feet, or 6.68 miles to remove one rail from that portion of its said Ryan branch lying between engineer's station 16+00 and engineer's station 184+36.8, a distance of 16,836.8 feet, or 3.19 miles, and thereafter to sell and convey said portion of said branch line to Death Valley Railroad Company for the sum of \$18,840.21, said sum to be paid to The Mechanics Trust Company and held by it as trustee under the terms of the two mortgages or deeds of trust which are liens upon its said property; and to remove the rails and materials from the remainder of its said branch above described.

It is hereby further ordered that Death Valley Railroad Company be and it is hereby authorized and empowered to purchase the said 3.19 miles of railroad above described; to pay therefor the sum of \$18,840.21; to sell and issue sufficient of its first mortgage 5 per cent sterling sinking fund bonds to produce that sum and to reimburse its treasury in that amount; said bonds to be sold at a price to net said applicant not less than 90 per cent of their face value.

The authority hereby given is upon the following conditions:

1. That good and sufficient deeds to convey clear title to said property free from incumbrance be executed and delivered.

2. Death Valley Railroad Company shall assume and carry out all of the obligations now resting by law upon Tonopah and Tidewater Railroad Company to serve the public by the common carriage of passengers and freight over said 3.19 miles of railroad.

3. The authority herein granted shall not be considered or treated in any proceeding before this Commission or any other tribunal as a finding by this Commission of value for any purposes other than those of the present applications.

4. Death Valley Railroad Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said

bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted shall apply only to such property and rights as shall have been transferred hereunder and to such bonds as shall have been issued hereunder, on or before August 1, 1916.

6. Tonopah and Tidewater Railroad Company shall report to the Railroad Commission within thirty (30) days after the conveyance of any property or rights hereunder, and after the payment of any money on account thereof, the fact and date of said conveyance and the payment of said money and to whom paid.

7. The payment of the fee prescribed in section 57 of the Public Utilities Act shall be a condition precedent to the effectiveness of this order.

Dated at San Francisco, California, this 29th day of April, 1916.

DECISION No. 3297.

M. V. STIREWALT ET AL.

vs.

CONSOLIDATED CANAL COMPANY.

Case No. 916.

Decided April 29, 1916.

Complainants, receiving water from a privately-owned ditch, for the maintenance of which they have agreed to pay, allege that the service of defendant is extremely poor, that the ditch is poorly maintained and in need of repair.

Defendant directed to repair, maintain and operate the Lobre ditch and the west branch thereof under the same rules and regulations as were heretofore established by the Commission governing its service to other consumers. All irrigators on the Lobre ditch receiving service to pay on or before the fifteenth day of May, both assessments of 10 cents and 35 cents, respectively, levied for the season of 1915, which are unpaid at present, and an assessment of 35 cents per acre per year to be paid on or before the fifteenth day of May for the years 1916 and 1917; thereafter on or before the same date the sum of 25 cents per acre per year. Defendant authorized to refuse service to such consumers as fail to pay the above charges on the dates due.

M. V. Stirewalt, R. R. Engelbreck, and Adolph Anderson, for Complainants.

Short & Sutherland, by W. A. Sutherland, for Defendant.

REPORT OF THE COMMISSION.

Complainants are sixteen ranchers in the vicinity of Kingsburg, Fresno County, located along the Lobre ditch, a private irrigating canal

leading from defendant's Grant canal. Lobre ditch, including its three branches, is about four and one-quarter miles long and was constructed by ranchers of the vicinity prior to 1904.

The complaint alleges that defendant refuses to operate the ditch because some users have not paid their water assessments; that it has failed to construct and maintain the ditch and structures in suitable condition to give adequate service; and that it wasted water needed by irrigators. The answer denies most of the allegations, admits refusal to operate the ditch, but expresses willingness to do so if assured in advance the amount of its expenditures.

Some twenty-three irrigators signed a proposition dated October 21, 1914, which was transmitted to defendant by the Commission. It reads as follows:

"We, the undersigned water users on the Lobre ditch, hereby request that the Consolidated Canal Company take over, maintain and operate the Lobre ditch forthwith:

From the end of the company's present jurisdiction to the southwest corner of section nine (9), being three miles more or less, including all the structures thereon.

And we agree to pay in advance ten cents (10¢) per acre to cover necessary repairs for fall of 1914.

And we agree to pay thirty-five cents (35¢) per acre for season of 1915.

And we agree to pay twenty-five cents per acre annually thereafter on October 1st.

Any part of these amounts which is remaining after the season's work is done is to apply on the next year's water assessment.

On demand of water users, canal company to furnish itemized statement of actual cost. If unsatisfactory, water users may cancel this agreement by unanimous consent at end of three years.

All the above in accordance with Rule 1 of the rules and regulations ordered by Railroad Commission and with the estimate of the Commission's engineer June 1, 1914."

Defendant accepted the offer and in January and February, 1915, reconstructed the ditch where needed, throughout its entire length, remodeling portions, scraping out portions, previously plowed by landowners in most places; practically rebuilding two sections, aggregating about 1,200 feet, putting in some 44 new structures, repairing flumes and other structures, and putting the ditch into a condition which it claims is adequate for the service of all of the lands tributary to the ditch, much of which, however, is not irrigated. The capacity of the ditch after being reconstructed was sufficient to carry about 20 second-feet of water in that portion above the Emigrant canal and about 12 second-feet in the portions south of Emigrant canal.

In doing the work defendant claims to have made the following expenditures:

Superintendence, labor and teams in reconstruction-----	\$596 75
Lumber, roofing and nails-----	153 59
For labor, tending ditch and flume, 1915, and repairs 1915-----	216 75
Total -----	<u>\$967 09</u>

It levied assessments of 10 cents and 35 cents, respectively, per acre upon the 1,096.5 acres served by the Lobre ditch, amounting to \$493.05, of which it has collected \$259.60, leaving unpaid a balance of \$233.45, as more fully shown in the following tabulation:

Assessments not paid.

Acres	Per cent not paid	10 cents acre 1914	35 cents acre 1915	Total
406 -----	37	\$40 60	\$142 10	\$182 70
145 -----	13½	-----	50 75	50 75
Total -----	-----	-----	-----	<u>\$233 45</u>

Of the 1,096.5 acres assessed, owners of 525.5 acres signed the petition or agreement; owners of 265 acres not signing paid the assessment of 10 cents per acre, and owners of 205 acres paid the assessment of 35 cents per acre, thus ratifying the agreement. The total of 790 acres represented by those signing or ratifying through payment, is over 72 per cent of the 1,096.5 acres assessed. Owners of nearly 37 per cent of the acreage did not pay either assessment, and the second assessment was not paid on over 13 per cent of the acreage.

Defendant diverts water from Kings River, which it serves for irrigating large areas through an extensive system of canals. Water users on Lobre ditch have contracts with defendant for service of not exceeding two cubic feet of water per second per quarter section of land delivered on defendant's main canals at a contract rate of 75 cents per acre per year. The respective payments of 10 cents, 25 cents and 35 cents per acre referred to in the agreement are in addition to the regular contract rate of 75 cents, and are for additional service to the extent of maintenance and operation of the Lobre laterals.

From the testimony at the hearing it appears that during 1915 there were many breaks in the ditch; that some users most of the time could not get water; that water was turned out of the ditch at times when irrigators needed water; and that there was no regulation by defendant of the use of water by irrigators on the Lobre ditch. When breaks occurred it was necessary to turn the water out of the ditch and dry it up sufficiently to make repairs. At one time the water was out for six days, and on other occasions for shorter periods, while repairs were

being made. One portion of the ditch was repaired seven times. Defendant regularly turned the water out of the ditch at night up to July 6th, when water became low in the river, and on other occasions when water was not being sufficiently used by irrigators and the banks were endangered by the stage of the water. The ditch tender made practically daily trips over the ditch, or parts of it, receiving requests for water and turning in water for the aggregate needs of users, but not attempting to regulate the use as between irrigators. Almost no complaints were made to him concerning service, and very few to defendant. It appears that all causes of complaint can be removed by now strengthening the ditch in places, and by observance of proper operating methods which will be the subject of rules and regulations provided.

At the close of the hearing it was agreed that Mr. R. W. Hawley, hydraulic engineer of the Commission, would inspect the ditch and investigate the work done by defendant upon it and check the cost of the work as nearly as possible from such inspection and investigation, and submit his estimate of cost thereof. His estimate of the highest reasonable cost of the work of defendant, accepting defendant's statement of cost of repairing breaks, is as follows:

New ditch -----	\$90 00
Clearing canal -----	120 00
Building turn-outs -----	170 00
Building checks, etc. -----	250 00
Time of ditch tender -----	62 00
Repairing breaks, etc. -----	49 00
Total -----	\$741 00

Referring to defendant's statement of cost, the men at the camp paid their board, so that the item camp cook, \$40.50, should be eliminated; ditch tender's time reduced \$106.25, according to testimony, to one-third of his time for the 2½ months the ditch was operated, and superintendent's time should be reduced \$67.50, being about half, for time evidently devoted by him to other work, making total deductions of \$214.25, reducing defendant's statement to \$753.00. The time book for the construction period shows rough segregation of time between this and other work, but not in sufficient detail to become the basis for exact figures. However, the two estimates of cost, using these different methods, are very close. We find defendant should receive \$810.00 to reimburse it for the actual cost of work done, with interest upon investment until time of its probable repayment, of which sum \$259.60 has been paid. That it was to receive actual cost was understood at the preliminary conference and evidently intended by the written agreement.

Defendant evidently did not understand that a branch of the ditch leading to the property of Adolph Anderson and others, sometimes called the west branch, was included in the terms of the agreement, and comparatively little work was done upon it, and evidently poor service resulted. We shall provide in the order that defendant repair, maintain and operate this portion of the ditch also, expecting it to be reimbursed for any necessary additional outlay on account thereof.

The 1914 agreement resulted from suggestions made by the engineers of the Commission. The Commission naturally anticipated that those who sought its aid would promptly pay the amounts agreed upon. Those obligated to pay and those benefited should have paid the assessments and reported promptly to the Commission if they did not receive proper service. The Commission has ample power to enforce such service and is willing to use its power if it becomes necessary and conditions justify. Instead of taking the course indicated, however, irrigators seem to have taken the matter into their own hands, many of them readily breaking their part of the agreement to pay, apparently in the belief that defendant would not do what it agreed in repairing and operating the ditch. Defendant did not seek to discriminate in service between those who paid and those who did not pay. The 1914 agreement did not obligate it to deliver water along Lobre ditch to those who did not pay as agreed. All irrigators on the ditch were entitled to receive water on the main canals if they paid their original contract rate of 75 cents per acre for water delivered there, and get it to their lands by whatever means they chose. Those bound by the 1914 agreement were not entitled to use the structures, facilities or increased efficiency provided along the Lobre ditch by defendant, without special payment therefor; and other irrigators were not morally entitled to such use. We expect irrigators to promptly pay the assessments not already paid, and we expect defendant to at once collect unpaid assessments for 1914 and 1915 and to collect succeeding assessments on the first of May of each year. It is evident that payment should be made before service is rendered, and that payments must be increased to return to defendant cost of this special service.

ORDER.

M. V. Stirewalt et al. having complained of defendant that it has failed to adequately reconstruct, maintain and operate the Lobre ditch leading from defendant's Grant canal, and defendant having answered denying that it assumed any obligation in reference thereto beyond the irrigating season of 1915, and that it has refused to manage and operate the ditch because of the failure of certain water users to pay therefor as agreed, and a public hearing having been held thereon, testimony taken and the matter having been submitted and being now ready for decision,

It is hereby ordered by the Railroad Commission of the State of California that defendant repair, maintain and operate until the further order of the Commission all of said Lobre ditch, including what is known as the west branch thereof, in accordance with the rules and regulations for Consolidated Canal Company and its water users, set forth in supplemental order in the case of *D. E. Brown et al. vs. Consolidated Canal Company*, Decision No. 1390 (Vol. 4, Opinions and Orders of the Railroad Commission of California, p. 592), as fully and completely as though said ditch were part of defendant's system; and that it deliver water through said ditch and its structures only to those irrigators who pay for such service at the rates hereinafter provided.

All irrigators served through said ditch who have not heretofore paid both the assessment of 10 cents per acre and 35 cents per acre, respectively, levied by defendant on account of the reconstruction, repair, operation and maintenance of said ditch during the irrigating season of 1915, shall on or before May 15, 1916, pay the amount of said two assessments now remaining unpaid. All irrigators served through said ditch shall also pay on or before May 15, 1916, and on or before May 1, 1917, the sum of 35 cents per acre per year, respectively, on account of reconstruction, repair, maintenance and operation of said ditch for the irrigating season of 1916 and 1917, respectively, and shall thereafter pay on said account annually or before the first day of May in each year the sum of 25 cents per acre per year until the further order of the Commission.

Defendant is authorized to refuse to deliver water through said Lobre ditch or the structures thereon to any irrigator thereon until said irrigator has paid the rates hereinabove set forth.

Dated at San Francisco, California, this 29th day of April, 1916.

DECISION No. 3127.

IN THE MATTER OF THE APPLICATION OF HERMOSA BEACH WATER CORPORATION FOR PERMISSION TO ISSUE TEN THOUSAND SHARES OF ITS CAPITAL STOCK AT PAR.

Application No. 2077.

Decided February 25, 1916.

Applicant authorized to issue \$10,000.00 par value of its capital stock, to be sold at not less than par, proceeds to be invested in its bonds to comply with the sinking fund provisions of its deed of trust.

F. D. Cornell, for Applicant.

REPORT OF THE COMMISSION.

Applicant asks authority of the Railroad Commission to issue and sell at par 10,000 shares of its capital stock of the par value of \$1.00 each. It wishes to place the proceeds with the trustee under the deed of trust securing the payment of its outstanding bonds, to be used under the sinking fund provisions of the deed of trust. The issued stock and bonds of applicant are all owned by El Sobrante Land Company. Said company has subscribed for said 10,000 shares of stock and \$5,000.00 is now in bank ready to be paid on account thereof when the issue of stock is authorized.

Applicant was organized September 22, 1914. It acquired the plant and system of Hermosa Beach Water Company, which had been serving domestic and irrigation water in Hermosa Beach and vicinity since 1901. Applicant has an authorized capital stock of \$100,000.00, divided into 100,000 shares of the par value of \$1.00 each, of which 35,006 shares are now issued. It has an authorized bonded indebtedness of \$80,000.00 face value. The issue of \$73,000.00 face value of said bonds has been authorized. Of this amount \$65,700.00 face value is now outstanding. Said stocks and bonds were authorized by this Commission in Decision No. 1866 of October 13, 1914, and Decision No. 2610 of July 19, 1915. Reference is hereby made to the above decisions and also to Decision No. 2868 of November 3, 1915, permitting an amendment of the deed of trust to provide for sinking fund.

Applicant formerly served domestic water in the city of Manhattan Beach, adjoining Hermosa Beach, before the city installed its own system. Applicant ceased serving water at retail in Manhattan Beach in July, 1914, but sold considerable water to the city for distribution through the city system until March, 1915. Since the latter date it had derived no revenue at all from the Manhattan Beach territory.

Applicant's system has not been appraised nor inspected by the Commission's engineers. The report of Mr. Burdett Moody, consulting engineer, was submitted and used at the present hearing and at the hearing of application for authority to purchase the present system and issue stock and bonds, which resulted in Decision No. 1866 above referred to.

During the last two years over \$6,000.00 has been invested in laying new pipe lines and 360 services to vacant lots in streets before paving. This installation is in the rapidly growing section of the city. The saving in expense of subsequent paving over mains and pipes applicant estimates will soon equal the amount so invested.

Applicant reports that it has developed its business in Hermosa Beach to such an extent that it is now serving as many consumers as it formerly served to Hermosa Beach and Manhattan Beach combined. It now has about 1,200 services, all metered.

The rates charged by applicant for domestic water are:

Monthly minimum including 6,000 gallons-----	\$1.50
First 20,000 gallons in excess of 6,000 gallons, per 1,000 gallons-----	.15
All water in excess of 26,000 gallons, per 1,000 gallons-----	.12
Flat rate per month-----	1.50

It reports gross earnings of \$21,027.25 for 1915, but does not submit its expenses for the same period, as it is awaiting the result of an auditing firm. It reports \$14,645.50 as the gross earnings for eight months ending September 30, 1915, and expenses (before providing for interest or depreciation of plant) of \$8,264.32 for that period.

Applicant estimates that by February 1, 1917, when it is required under its deed of trust to provide \$2,000.00 for the sinking fund, its net earnings will be sufficient to care for its annual interest on \$73,000.00 of bonds, provide suitable annuity to meet accruing depreciation on its plant, and provide sinking fund as required by its deed of trust.

In view of this estimate, there seems to be no real need at this time to issue stock to provide a sinking fund. The amended deed of trust provides that applicant "will accumulate from the revenues of the company from time to time" and pay over to the trustee sinking fund in increasing annual amounts "from the revenues collected during the year." It is probable that the money received from the sale of stock could be used to better advantage by applicant in its business than through investments which will be available to the trustee under conditions imposed by the deed of trust and the order herein. Investment of the sinking fund by the trustee in bonds of applicant would be the part of wisdom. As a reduction of indebtedness and an added protection to the holders of the bonds will result, we grant the application.

ORDER.

Hermosa Beach Water Corporation having applied to the Railroad Commission for authority to issue at par 10,000 shares of its capital stock of the par value of \$1.00 each and place the proceeds thereof in the hands of Title Insurance and Trust Company of Los Angeles as trustee under its deed of trust, securing the payment of its bonds, said moneys to be used by said trustee under and in accordance with the sinking fund provisions of the deed of trust securing the payment of said bonds, and a public hearing having been held thereon, and it appearing to the Commission that the purposes for which the proceeds of said stock are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered by the Railroad Commission of the state of California that Hermosa Beach Water Company be and it is hereby authorized and empowered to issue to El Sobrante Land Company 10,000 shares of its capital stock at par for cash, and to place the proceeds thereof in the hands of Title Insurance and Trust Company of Los Angeles as trustee under the deed of trust securing the payment of its bonds, to be invested by said trustee under the provisions of said deed of trust and the conditions of this order.

The authority hereby granted is upon the following conditions and none other, to wit:

1. Said fund so placed in the hands of said trustee shall be invested by it in bonds of Hermosa Beach Water Corporation under the terms and provisions of said deed of trust or in securities approved by law for the investment of trust funds.

2. Hermosa Beach Water Company shall within twenty days after the issue of any of its capital stock hereunder notify this Commission in writing of the date, number of shares and person or persons to whom issued and the disposition made of the proceeds thereof; and shall keep this Commission advised from time to time in writing and in detail as to the investment of said sinking fund by said trustee, said advice to be communicated not less than twenty days after an investment or change of investment by said trustee.

3. The authority hereby granted shall apply as to 5,000 shares of its capital stock, only to stock issued by applicant within twenty days after the date hereof; and as to 5,000 shares of its capital stock, only to stock issued by applicant within 90 days after the date hereon.

Dated at San Francisco, California, this 25th day of February, 1916

GRADE CROSSINGS.

Decision Number	Application Number	Applicant	Location	Action	Date
3024	2920	Southern Pacific Co.	Mojave	Granted	Jan. 4, 1916
3025	2934	Atchison, Topeka and Santa Fe Ry.	Fresno	Granted	Jan. 4, 1916
3026	2036	Southern Pacific Co.	Patterson	Granted	Jan. 4, 1916
3035	1907	Dept. of Engineering, State of Cal.	Milpitas	Granted	Jan. 10, 1916
3033	2013	Dept. of Engineering, State of Cal.	Davis	Granted	Jan. 10, 1916
3040	2005	El Monte Ranch Co.	Riverview Farms	Dismissed	Jan. 14, 1916
3050	2039	County of Sutter	Live Oak	Granted	Jan. 19, 1916
3051	2010	Pacific Electric Railway Co.	Los Angeles	Granted	Jan. 19, 1916
3064	2047	Pacific Electric Railway Co.	Los Angeles	Granted	Jan. 25, 1916
3065	2057	Southern Pacific Co.	Kern County	Granted	Jan. 25, 1916
3066	2011	Sacramento County	Sacramento Co.	Granted	Jan. 25, 1916
3071	1806	Southern Pacific Co.	Sacramento Co.	Dismissed	Jan. 28, 1916
3076	2052	Southern Pacific Co.	Fresno County	Granted	Feb. 3, 1916
3079	2070	Southern Pacific Co.	Tulare County	Granted	Feb. 4, 1916
3086	2076	Southern Pacific Co.	San Francisco	Granted	Feb. 8, 1916
3088	2080	Southern Pacific Co.	Weed	Granted	Feb. 10, 1916
3091	1962	City of Monrovia	Monrovia	Dismissed	Feb. 14, 1916
3115	2083	Southern Pacific Co.	Camarillo	Granted	Feb. 21, 1916
3116	2089	Pacific Electric Railway Co.	Riverside	Granted	Feb. 21, 1916
3117	2092	Southern Pacific Co.	Santa Ana	Granted	Feb. 24, 1916
3118	2088	Pacific Electric Railway Co.	Los Angeles	Granted	Feb. 24, 1916
3119	2091	Southern Pacific Co.	Calexico	Granted	Feb. 24, 1916
3120	1545	Atchison, Topeka and Santa Fe Ry.	Los Angeles	Dismissed	Feb. 24, 1916
3128	2060	San Diego and Arizona Railway Co.	San Diego	Granted	Feb. 25, 1916
3133	1855	County of San Bernardino	Colton	Granted	Feb. 29, 1916
3141	2019	Pacific Electric Railway Co.	Upland	Granted	Mar. 4, 1916
3144	2123	Atchison, Topeka and Santa Fe Ry.	San Francisco	Granted	Mar. 11, 1916
3145	2111	Southern Pacific Co.	Oakland	Granted	Mar. 11, 1916
3146	2122	Southern Pacific Co.	Strathmore	Granted	Mar. 11, 1916
3147	2120	Pacific Electric Railway Co.	Los Angeles	Granted	Mar. 11, 1916
3148	2118	Pacific Electric Railway Co.	Los Angeles	Granted	Mar. 11, 1916
3151	2129	Tidewater Southern Railway Co.	Modesto	Granted	Mar. 14, 1916
3160	2133	Southern Pacific Co.	Vernon	Granted	Mar. 14, 1916
3176	2090	Pacific Electric Railway Co.	Lamanda Park	Granted	Mar. 22, 1916
3181	2133	Atchison, Topeka and Santa Fe Ry.	Pittsburg	Granted	Mar. 22, 1916
3184	1975	City of San Fernando	San Fernando	Per. Rev.	Mar. 25, 1916
3189	2134	Southern Pacific Co.	Redding	Granted	Mar. 25, 1916
3190	2110	S. P., L. A. and S. L. R. R. Co.	Vernon	Granted	Mar. 25, 1916
3191	2150	Minkler Southern Railway Co.	Woodlake	Granted	Mar. 25, 1916
3192	2118	Southern Pacific Co.	Marysville	Granted	Mar. 25, 1916
3193	2159	Southern Pacific Co.	Mantera	Granted	Mar. 25, 1916
3194	2160	Southern Pacific Co.	Visalia	Granted	Mar. 25, 1916
3201	2161	Southern Pacific Co.	Porterville	Granted	Mar. 28, 1916
3203	1729	San Diego and Southeastern Ry. Co.	Tijuana	Dismissed	Mar. 29, 1916
3209	2100	Southern Pacific Co.	Lindsay	Granted	Mar. 29, 1916
3213	2137	Pacific Electric Railway Co.	Ontario	Granted	Mar. 30, 1916
3214	2181	Pacific Electric Railway Co.	Ontario	Granted	April 5, 1916
3223	2182	Pacific Electric Railway Co.	Owensmouth	Granted	April 5, 1916
3236	2183	Pacific Electric Railway Co.	Wilmington	Granted	April 5, 1916
3237	2157	Town of St. Helena	St. Helena	Granted	April 5, 1916
3248	2193	Atchison, Topeka and Santa Fe Ry.	Porphyry	Granted	April 10, 1916
3250	2195	Southern Pacific Co.	Bakersfield	Granted	April 13, 1916
3251	2202	Southern Pacific Co.	Los Angeles	Granted	April 13, 1916
3259	2204	Southern Pacific Co.	Exeter	Dismissed	April 17, 1916
3263	2131	S. P., L. A. and S. L. R. R. Co.	Fruitland	Granted	April 24, 1916
3283	2113	Pacific Electric Railway Co.	San Pedro	Granted	April 21, 1916
3285	1952	Yuba County	Yuba County	Granted	April 27, 1916
3286	2130	City of Sacramento	Sacramento	Granted	April 27, 1916

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